

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

Contempt ORIGINAL APPLICATION NO. 40/2000 (A. 367/2000)

..... *Adharenar. Prasad.* Applicant.

versus

Union of India & Ors *A.K. Saini. & Ors.* Respondents.

For the Applicant(s) *Mr. R. P. Sharma.*
Mr. B. Chakraborty.

For the Respondents.

NOTES OF THE REGISTRAR

DATE

ORDER

The applicant Advocate
has filed this
contempt against the
order of 31-10-2000
for non-compliance of the
Tribunal order.

Laid before
Hon'ble court for further
orders.

22.11.00

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

Heard Mr B. Chakraborty, learned
counsel for the petitioner.

Issue notice to show cause as
to why a contempt proceeding shall
not be drawn up against the alleged
contemners.

List on 1.1.2001 for show
cause and further order.

[Signature]
Vice-Chairman

pg

[Signature]
Section Officer. (7/11)

[Signature]

10.4.2001

The order passed on 31.10.2000
has now merged with the Judgment and
Order in O.A.No.367/2000. The Contempt
Petition accordingly stands disposed of.

[Signature]
Vice-Chairman

Notice prepared and sent to D/s
for issuing the Respondent No 1 & 4
by Regd AID & by Hand vide D/No
2839541 dtd 29/11/00.

[Signature]
24/11/00

N

2

C.P.No.40/2000

1.1.2001

Put up on 27.1.2001 after service.

1-1-2001

Show cause reply
by the Contemner
No. 1.

nkm

Vice-Chairman

27.1. N.S.B. Adjourned to 7.2.2001.

Mo
A. K. S. S.
27.1

Booo

5.2.2001

7.2.01

List the matter on 8.3.2001.

Vice-Chairman

Show Cause reply
has been filed on behalf of S.B. - N.S.B. on 14.3.2001.
of the Respondent No. 4.

Mo
A. K. S. S.
8/3.

Mo
5/2/2001

14.3.01

List on 4.4.2001 for order alongwith
O.A.367/2000.

13.3.01

Show cause reply on
b/h R. no. 1 & 4 are
filed.

pg

Member

K. L. Shetty

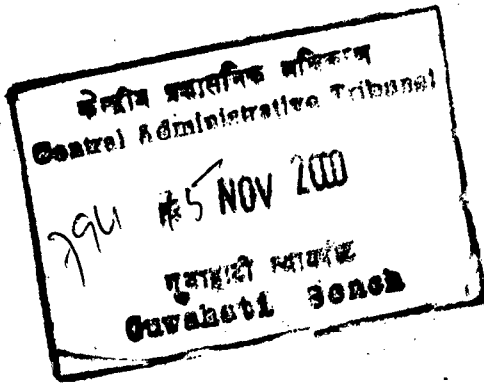
~~with list on 10.4.2001 for order~~

~~alongwith O.A. 367/2000~~

Mo
A. K. S. S.
4/4

H.H. Hearing Concluded, Judgment
reserved.

Mo
A. K. S. S.
4/4



IN THE HON'BLE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH.-GUWAHATI

CIVIL CONTEMPT PETITION NO. 40 /2000

In O.A No. 367/2000

1. Shri Dhaneshwar Prasad,
s/o Sri P. Prasad
presently residing at Rest Camp,
Pandu, Guwahati-781012..

....Applicant/Petitioner.

Versus

1. Shri D.K. Saini
The Assistant Commissioner,
KVS, Guwahati Regional Office,
Maligaon, Guwahati-11.
2. Shri H.M. Caire,
The Commissioner , KVS
18, Institutional Area,
Saheed Jeet Singh Marg, New
Delhi-16.
3. Shri P.K. Agarwal,

.....Contd

Dhaneshwar Prasad

The Deputy Commissioner
(Finance), KVS, 18
Institutional Area, Saheed
Jeet Singh Marg, New Delhi-
16.

4. Shri D. Venkateswarlu,
Principal (~~1/c~~), Kendriya
Vidyalaya, Maligaon,
Guwahati-11.

.....Respondents

In the matter of :-

An application under Article 17 of
the Administrative Tribunal Act,
1985 for Contempt of Court.

-And-

In the matter of :-

Willful violation and non-
compliance of order dated
31.10.2000 of this Hon'ble
Central Administrative Tribunal,
Guwahati Bench passed in O.A No.
367/2000.

The humble petition of the
petitioner above named-

MOST RESPECTFULLY SHEWETH:

.....Contd.

Dhanushwar Prasad

1. That the petitioner is a resident of Pandu Rest Camp, Guwahati and is presently working as Post Graduate Teacher at Kendriya Vidyalaya, Maligaon.
2. That the petitioner approached this Hon'ble Tribunal by filing a petition which was registered as O.A No. 367/2000 against the order of transfer dated 28.9.2000 by which the petitioner was transferred from KV, Maligaon to KV No.1 at Imphal.
3. That the Hon'ble Tribunal upon hearing the parties vide an order dated 31.10.2000 while issuing notice upon the Respondents, in-interim suspended the operation of the order of transfer dated 28.9.2000. The said order was duly communicated by the petitioner vide his application dated 3.11.2000 which was duly received by the Respondent No.1.

A copy of the said order dated 31.10.2000 along with the application dated 31.10.2000 is annexed herewith as Annexure-A & A-1.

4. That the petitioner did also approached the Respondent No.4 to join in his post, but the Respondent No.4 told the petitioner that unless instruction for joining comes from Respondent No.1, he is not in a position to allow the petitioner to join in his post as Respondent No.1 has specifically instructed to allow to join only after he give his consent from his end.

.....Contd.

Dhaneshwar Prasad

5. That the petitioner begs to state that the petitioner's wife in the mean time has developed some problems as she is in her advance stage of pregnancy and the doctor has asked her to take rest and special precaution.

A copy of the medical certificate is annexed herewith as Annexure B.

6. That it is stated that the respondents have not till today complied with the order dated 31.10.2000 passed in O.A No. 367/2000 and for same the Respondents, more specifically Respondent No. 1,2 and 3 are liable to be prosecuted as per provisions of law. The said order dated 31.10.2000 has not been set aside till date and the O.A. No.367/2000 is still pending for disposal before this Hon'ble Tribunal.
7. That the denial to join in his post as per order dated 31.10.2000 of this Hon'ble Tribunal in O.A No. 367/2000 is a clear violation of the Hon'ble Tribunal's orders and direction. The respondents have willfully violated and flouted the order of the Hon'ble Tribunal and denied the petitioner to join in his post as Post Graduate Teacher at KV Maligaon. By willfully not complying the Respondents have shown scout regard to this Hon'ble Tribunal's order and by such willful flouting of the order, the Respondents have caused irreparable loss to the students as well as to the petitioner.

.....Contd.

Dhaneshwar Prasad

8. That the Respondents are guilty of offense of contempt of court under the Contempt of Court Act read with the relevant rules and procedures under the Central Administrative Tribunal Act, 1985 for willful and negligent act and for violating the Tribunal's order dated 31.10.2000 and for same, the Respondents are liable to exemplary punishment and to be prosecuted against for this.
9. That this petition is made bonafide and in the interest of justice.

In the premises aforesaid it is therefore humbly prayed that your Lordships will be pleased to admit this application, call for records of the case, peruse the same and summon the physical presence of the Respondents before this Tribunal to explain personally why they should not be proceeded against for offence of contempt of court under the Contempt of Court Act read with relevant provisions of the Administrative Tribunal Act, 1985 and why an exemplary punishment should not be passed on them for willful violation of the orders dated 31.10.2000 passed in O.A No. 367/2000 by this Hon'ble

.....Contd.

Dhanushwar Prasad

Tribunal, and after hearing the parties, punish the respondents accordingly and/or pass such and/or other order/orders/ directions as your Lordships deem fit and proper.

And for this act of your kindness the humble petitioner shall ever pray.

.....Contd.

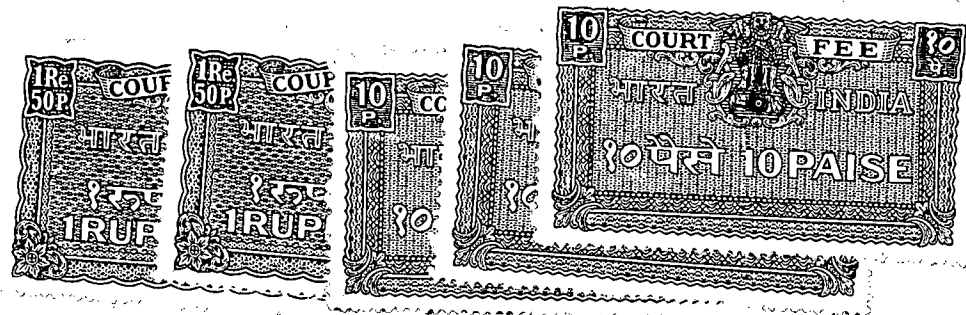
Dhaneshwar Prasad

DRAFT CHARGE

That the petitioner states that the Respondents named here in this petition are liable to be prosecuted under the relevant provision of the Contempt of Courts Act read with the provisions of Administrative Tribunal Act, 1985 for non compliance of the order dated 31.10.2000 passed by this Hon'ble Tribunal in O.A. 367/2000.

.....Contd.

Dhaneshwar Prasad



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AFFIDAVIT

I, Sri Dhaneshwar Prasad, s/o Shri P. Prasad, aged about 39 years, resident of Rest Camp, Pandu, Guwahati-12 do hereby solemnly and state as follows:

1. That I am the petitioner in the instant case as thus competent to swear this affidavit.
2. That the statements made in this petition from paragraphs 1, 2 and 4 to 7 are true to my knowledge and belief and those in paragraphs 3 are being matters of information derived from records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 16th day of November, 2000 at Guwahati.

Identified by

B. Chakravarty

Advocate.

Dhaneshwar Prasad

Deponent.

Solemnly affirmed and declared by the above named deponent identified by B. Chakravarty, Advocate on the date as mentioned above.



12/11/2000
Special Judge, Guwahati
Magistrate, Guwahati
Assam, Guwahati.

.....Contd.

Annexure - A

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 367/2000

Shri. Shaaneshwar Prasad . . . APPLICANT'S
versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S) *Mr. R. P. Sharma*
ADVOCATE *Mr. B. Chakraborty*.

FOR THE RESPONDENT(S) *Dr. B. P. Todi*
K.V.S.

Notes of the Registry DATE COURT'S ORDER

31.10.2000 Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Heard Mr. R.P. Sharma, learned counsel for the applicant and also Dr.B.P. Todi, learned counsel for K.V.S.

Application is admitted. Call for the records.

Dr. Todi accepts notice on behalf of Respondents No.1 to 4. Issue notice to the other respondent.

Heard learned counsel for the parties on the interim prayer.

Issue notice to the respondents to show cause as to why the impugned order dated 28.9.2000 transferring the applicant from Kendriya Vidyalaya, Maligaon, Guwahati to Kendriya Vidyalaya, Imphal shall not be suspended. Returnable by three weeks.

In the meantime, the operation of the impugned order dated 28.9.2000 vide No.F.42-10/99-KVS(ESTT.III) (Annexure-'F') shall remain suspended till the returnable date.

List on 22.11.00 for show cause and further orders.



Certified to be true Copy

প্রমাণিত প্রতিলিপি

Section Officer (J)

স্বাক্ষরিত প্রতিলিপি
Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক অধিদপ্তর
Guwahati Bench, Guwahati-8
গুৱাহাটী ন্যায়ালয়, গুৱাহাটী-৮

Sd/ VICE CHAIRMAN

*Attorney
Rms-
Admrat*

KS 31/10/2000

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ANNEXURE-A-1 SERIES

To,

The Principal,

K.V. Maligaon

Sub: Resumption of service as PGT (Economics).

Sir,

I beg to state that the Hon'ble Court vide order No. 367/2000 dt. 31.10.2000 pleased enough to suspend the operation of the impugned order dated 28.9.2000 vide No. F-42-10/49 KVS(ESTT-III). A photo copy of the Court order is attached herewith for your kind information and necessary action.

Under such circumstances I am entitled to resume my service as PGT(Eco) with immediate effect.

Received one court

(photocopy)

sd/-illegible

31.10.2000

yours faithfully,

sd/- Dhaneshwar Prasad,

PGT(Eco)

dated 31.10.2000

*Attested
Rms -
Advocate*

- 10 -

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ANNEXURE-A-1 SERIES

To,

The Asstt. Commissioner, KVS,

Guwahati Region.

Sub: Resumption of service as PGT (ECO)

Sir,

Most humbly and respectfully, I beg to state that the Hon'ble Court vide order No. 367/2000 dt. 31.10.2000 pleased to suspend the operation of the impugned order of transfer dt. 28. 9.2000 vide No. F-42-10/99 KVS (ESTT.III) (Annexure-F). a photo copy of the Court's order is attached herewith for your kind information and necessary action.

Under such circumstances I am entitled to resume my duty with immediate effect. When I reported the Principal of KV Maligaon for joining the duty, I was told by the Principal after court order he is waiting to get the consent of KV authority.

Therefore, I would like to request you to allow me to join the duty. It has been heard that you are going to take action against me. If the case is in the court, any type of action would be totally illegal and malafide and against the court's order. It is my humble request to consider my case sympathetically and allow me to join the duty.

Yours faithfully

Sd/- Dhaneshwar Prasad.

3.11.2000.

*Attested
R/S
Ashwathi*

.....Concl

14

- 11 -

ANNEXURE-A-2

To, the Assistant. Commissioner,
KV Guwahati Region.

Sir,

With respect I have to say that I have written an application dt. 3.11.2000 to you for my joining after court order. But I could not receive any response from you. It has been heard that some teachers have joined after court's order in your region. Unfortunately in my case distinction is going to be made. It is against the Court order and natural justice.

Therefore, I would like to request you to allow me to resume my duty. For this I would be very grateful to you.

Thanking you.

Yours faithfully,

Sd/-Dhaneshwar Prasad,
PGT9Eco), KV Maligaon.

Dated 13.11.2000.

*Attended
per S-
Advocate*

.....boma

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ANNEXURE-B

TO WHOM IT MAY CONCERN

This is to certify that Sri Rupam Prasad, w/o Mr. Dhaneswar Prasad, P.G.T (Economics) K.V. Maligaon is under my treatment since April'00. She is 33 and pregnant with putum labour. She is on medicines and needs rest for continuing the pregnancy to them.

Sd/- illegible

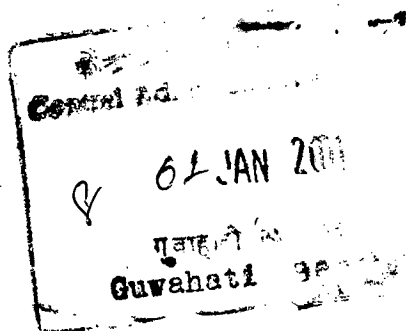
(M.B.B.S, M.D)

Obstetrician & Gynaecologist

Regd. No. 10771

*Attested -
P. Choudhary
Rohmat*

.....Contd.



13
16
filing through
delivered
e. No. B.P. Today
Answer
11/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :

AT GUWAHATI

CONTEMPT PETITION NO. 40/2000 IN
ORIGINAL APPLICATION NO.367/2000

Shri Dhaneshwar Prasad

..... Applicant

-Versus-

Kendriya Vidyalay Sangathan and ors

.....Respondents.

IN THE MATTER OF :

An show cause reply filed on behalf of
Respondent No. 1.

I, Shri D.K. Saini, son of Shri C.L. Saini, aged about 52 years, presently residing in Guwahati, in the State of Assam do hereby solemnly affirm and state as follows :-

1. That I am presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan (hereinafter referred to in short as KVS) Guwahati Region in the State of Assam. I have been impleaded as Respondent No.1 in the aforesaid Contempt Petition. A copy of the Contempt Petition was served upon me. I have gone through the same and under-

stood the contents thereof.

2. That the deponent does not admit anything other than those specifically admitted herein and the statements based on records to the extent such documents on records support them. All other statements made in the Petition are therefore may be treated as denied by the deponent.

3. That with regard to the statements made in paragraphs 1 to 3 of the contempt petition the deponent has no comment as these are matter of records.

4. That with regard to statements made in paragraph 4 of the contempt petition the deponent begs to state that the matter was forwarded to the KVS, Headquarter (in short H.Q.) that is to the Joint Commissioner, KVS, New Delhi vide the office letter dated 1.11.2000 for clarification in view of the said Court order.

5. That with regard to statements made in paragraph 5 of the contempt petition, the deponent begs to state that personal problems cannot over-ride the service conditions and transfer guidelines of the organisation.

6. That with regard to statements made in paragraph 6 and 7 of the Contempt petition the deponent begs to state that the averments made by the petitioner are not correct. The matter was forwarded to the KVS, H.Q. and the same has

been discussed with Legal Adviser (in short L.A.), KVS, (Hqrs.)

As per discussion held with the LA, KVS (H.Q.) it was pointed out that only the order of transfer has been suspended till the next date of hearing. The order of the Hon'ble Central Administrative Tribunal has been complied with as the KVS has not taken any disciplinary action or any other action to compel the application to post at a place where he has been transferred. However, there is no such order to the KVS to take back the applicant to duty. There is no injunction restraining the relieving order which has worked itself out relieving the applicant with effect from the date it was passed.

7. That with regard to statements made in paragraph 8 and 9 of the Contempt Petition, the deponent begs to state that the allegations made by the petitioner is wholly incorrect and is based on presumption.

8. That the deponent begs to state that there is no willful disregard in complying the order of the Hon'ble Central Administrative Tribunal as alleged. Therefore, it is prayed that the contempt proceeding initiated against the deponent may kindly be dropped.

9. That the deponent begs to state that there is no negligence or laches on the part of the deponent as he is

always prompt in complying with the order passed and direction given by the Hon'ble Central Administrative Tribunal.

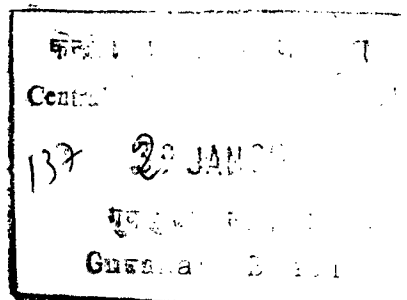
10. That the affidavit is filed bona fide and for the ends of justice.

11. That the statements made in this affidavit are true to the best of my knowledge and belief supported by the relevant record which I believe to be true.

And I sign this affidavit-in-opposition on this 1st day of January, 2001 at Guwahati.

Identified
Bayag.
1/1/2001
(Anjantha Bama)

William Lami
DEPONENT



20
Filed through:
P. B. Barua
Advocate
29.1.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH :
AT GUWAHATI

CONTEMPT PETITION No. 40/2000
IN
ORIGINAL APPLICATION No. 367/2000

Shri Dhaneshwar Prasad ... Applicant

-Versus-

Kendriya Vidyalaya Sangathan and ors.

... respondents.

IN THE MATTER OF :-

show cause reply filed on behalf of the
respondent No. 4.

I, Shri D.Venkateswarlu son of D. Krishna murthy
aged about 41 years presently residing in Maligaon,
Guwahati, in the State of Assam do hereby solemnly affirm
and state as follows:-

1. That I am presently working as the Principal,
Kendriya Vidyalaya, Maligaon in the State of Assam. I have
been impleaded as Respondent No. 4 in the aforesaid Contempt
Petition. A copy of the Contempt Petition was served upon
me. I have gone through the same and understood the contents
thereof.
2. That the deponent doesnot admit anything other
than those specifically admitted herein and the statements
based on records to the extent such documents on records

support them. All other statements made in the Petition are therefore may be treated as denied by the deponent.

3. That with regard to the statements made in paragraphs 1 to 3 of the contempt petition the deponent has no comment as these are matter of records.

4. That with regard to statements made in paragraph 4 of the contempt petition the deponent begs to state that the matter was forwarded to the KVS, New Delhi vide the Office letter dated 1.11.2000 for clarification in view of the said Court Order.

5. That with regard to statements made in paragraph 5 of the contempt petition, the deponent begs to state that personal problems cannot over-ride the service conditions and transfer guidelines of the organisation.

6. That with regard to statements made in paragraph 6 and 7 of the contempt petition the deponent begs to state that the averments made by the petitioner are not correct. The matter was forwarded to the KVS H.Q. and the same has been discussed with Legal Adviser (in short L.A.), KVS.(Hqrs.)

As per discussion held with the LA, LVS (H.Q.) it was pointed out that only the order of transfer has been suspended till the next date of hearing. The order of the

-3-

Hon'ble Central Administrative Tribunal has been complied with as the KVS has not taken any disciplinary action or any other action to compel the application to post at a place where he has been transferred. However, there is no such order to the KVS to take back the applicant to duty. There is no injunction restraining the relieving order which has worked itself out relieving the applicant with effect from the date it was passed.

7. That with regard to statements made in paragraph 8 and 9 of the Contempt Petition, the deponent begs to state that the allegations made by the petitioner is wholly incorrect and is based on presumption.

8. That the deponent begs to state that there is no willful disregard in complying the order of the Hon'ble Central Administrative Tribunal as alleged. Therefore, it is prayed that the contempt proceeding initiated against the deponent may kindly be dropped.

9. That the deponent begs to state that there is no negligence or laches on the part of the deponent as he is always prompt in complying with the order passed and direction given by the Hon'ble Central Administrative Tribunal.

10. That the affidavit is filed bonafide and for the ends of justice.

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11. That the statements made in this affidavit are true to the best of my knowledge and belief supported by the relevant record which I believe to be true.

And I sign this affidavit-in-opposition on this 29th day of January, 2001 at Guwahati.

D. Venkateswarlu -

DEPONENT