

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEETContempt APPLICATION NO. 7/2000
OA. 40/2000

OF 199

Applicant(s) Sri Nagen Chandra Sena.Respondent(s) Sri D.P. Tripathy and ors.Advocate for Applicant(s) Mr. S. Huda, Mr. A. Hui.

Advocate for Respondent(s)

Notes of the Registry	Date	Order of the Tribunal
The learned applicant Advocate has on filed this Contempt petition for non compliance of order dt. 11-2-2000 passed by this Honble Tribunal.	24.3.00	Let this case be listed alongwith O.A.No.40 of 2000 on 28.3.00 for orders.
Laid before Honble court for further orders.	1m	<u>62</u> Member
<u>Section officer.</u> <u>9/3/2000</u>	28.3.2000	Heard Mr S.Huda, learned counsel for the petitioner and Mr B.K.Sharma, learned Sr. counsel for the alleged contemners. Issue notice to show cause as to why contempt proceeding shall not be drawn up against the alleged contemner. Notice is returnable by four weeks. List on 28.4.2000 for filing objection and further orders.
<u>pg</u>		<u>62</u> Member
<u>no draft charge</u> <u>9/3/2000</u>	28.4.00	None is present. No show cause has been submitted. List for order on 30.5.00.
<u>1m</u>		<u>62</u> Member

16/04/2000

Notes of the Registry

Date

Order of the Tribunal

Order dtd 17/11/00 Commended
to the Justice Council. vide
D/No 2727 dtd 22/11/00

30.5.00

Bharat Bank today

Adj'd 11-27-6-00

27.6.00

There is no Bench today.
Adj'd 11-25-7-00

25-7-00

There is no Bench. Adj'd 11

28-8-00

28-8-00

There is no Bench. Adj'd
11-2-11-00

2.11.00

On the prayer of Mr. B.C. Pathak,
learned Addl. C.G.S.C. case is adjourned
to 6.11.00 orders.

Vice-Chairman

lm

2.11.00

~~None appears~~ None for the
petitioner. List on 4.12.00 for
orders.

Vice-Chairman

lm

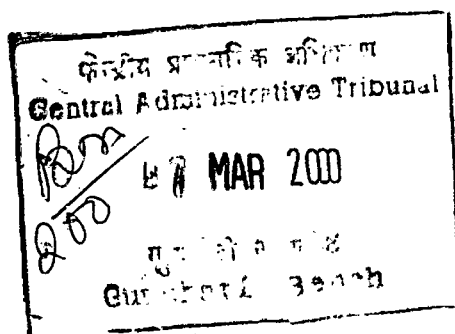
4.12.00

None appears on behalf of the
parties. It appears that the alleged
violation pertains to an interim order passed
by the Tribunal on 11.2.2000 in O.A. No.
40/2000. The O.A. itself stood disposed of on
30.3.2000. Interim order stood dissolved
alongwith the O.A. In the circumstances the
question of continuancy of Contempt
Proceeding does not arise. Accordingly the
Contempt Proceeding stands closed.

Vice-Chairman

19.12.2000

Copy of the order
has been sent to the
D/Sec- Genl. Secy in the
to the L/Advocate for the
parties.



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Nagen chandra
F. R. D. 13
H. D. 13
ADV. 3-3-2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH,
GUWAHATI.

C.P. No. 7 2000

in O.A.No.40/2000

Shri Nagen Chandra Deka ...Applicant.

- Versus -

Union of India & Others....Respondents
Contemners.

I N D E X

Sl. No.	Particulars of documents	page No.
1. Application		1-6
2. Verification		7
3. Annexure		8-11

For the use in Tribunal's office

Date of filing :

Registration No.

REGISTRAR.

Nagen Chandra
F-1000
A.H. 17
22.3-3-2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH
GUWAHATI.

C.O.P. No. _____/2000

IN THE MATTER OF :

An application under Article 216 of the
Constitution of India read with Section
12 of the Contempt of Courts Act, 1971;
and 13.17 of A.T. Act. 1985

- AND -

IN THE MATTER OF :-

Wilful violation and/or disobedience of
of the order dated 11.2.2000 passed by
this Hon'ble Tribunal in O.A.40/2000;

- AND -

IN THE MATTER OF :-

Shri Nagen Chandra Deka
son of Late K.R. Deka,
Railways Quarter No.180/B,
East Maligaon
PO Maligaon, Guwahati-11,
Kamrup, Assam

.... Petitioner.

- Versus -

1. D.P. Tripathy

Secretary to the Govt. of India,
Railways ~~Communication~~ Ministry,
~~Railway Services~~ Board, New Delhi-110 001.

... Contd...

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2. Shri Rajendra Nath,
General Manager (P)
N.F.Railway, Maligaon,
Guwahati-781 011

3. Shri V. Subramaniam,
Divisional Railway Manager,
N.F.Railways, Laming Division,
Laming Division, Laming-782 447.

.....CONTEMNERS

. The humble petition of the
petitioner abovenamed -

MOST RESPECTFULLY SHEWETH :

1. That the petitioner is a permanent resident of Baihata Chariali, PO & PS Baihata in the district of Kamrup (Assam) and presently residing at Quarter No.180/B, East Maligaon, PO Maligaon, Guwahati-11 in the district of Kamrup (Assam) and is a peace loving citizen of India.

2. That being aggrieved by and dissatisfied with the transfer order dated 24.9.99 the wife of the petitioner as well as the petitioner himself filed several representations before the authority concerned for alteration and/or modification of the transfer order but nothing has been done by the authority concerned, and as such, the petitioner approached the Hon'ble Central Administrative Tribunal, Guwahati and filed a Case which was numbered as O.A.40/2000 and this Hon'ble Tribunal by order dated

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11.2.2000 passed in the aforesaid case suspended the transfer order dated 24.9.99. Thereafter on 14.2.2000 he filed an application before the General Manager(P), N.F.Railways Maligaon for implementation of the said order of the Hon'ble Tribunal. But he has not done nothing till today, and as such, this application before this Hon'ble Tribunal for drawing up contempt proceeding under the contempt of Courts Act for violation of the order dated 11.2.2000 of this Hon'ble Tribunal.

A copy of the order dated 11.2.2000 passed by this Hon'ble Tribunal is annexed herewith and a copy of the application dated 14.2.2000 is annexed herewith and marked as Annexures-A & B to this petition.

3. That the petitioner begs to submit that the abovenamed contemnors in collusion with others individually and jointly are responsible for the wilful disregard and disobedience of the order passed by this Tribunal inviting contempt of this Hon'ble Tribunal, and as such, they are liable to be punished under the Contempt of Courts Act.

4. That the petitioner begs to submit that there ~~concerning contemners~~ has been wilful disobedience of the order dated 11.2.2000 of this Hon'ble Tribunal, certified copy of which was submitted before the concerned contemnors for implementation of the Hon'ble Tribunal's order but the contemner had not paid any heed to it or there was not a single whisper as to the implementation

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of the mandatory direction given by this Tribunal and they are tactfully avoiding and delaying the process of the case and thus it is grossly violative of the Hon'ble Tribunal's order dated 11.2.2000.

5. That it is respectfully submitted that by not implementing the Hon'ble Tribunal's order the respondents/contemners have committed an offence of Contempt of Court's Act for which they are liable to be dealt with severely under the provisions of the Contempt of Courts Act and more particularly under Sections 12, 14 and 15 of the said Act. The alleged offence is also violative of the other provisions of law under the Constitution of India.

6. That as stated above, it is gathered that the Contemners had not taken any appropriate steps for implementing the mandatory direction of this Tribunal. Thus there is systematic disobedience of this Hon'ble Tribunal's order and mandatory direction and as such, it is prima facie, an appropriate case that the contemners should be dealt with strictly.

7. That the utter disrespect shown to the mandatory direction of this Hon'ble Tribunal's proves that the contemners have the least respect of the direction given by this Hon'ble Tribunal and thus by their own action they have made themselves liable to be punished under the appropriate provisions of the Contempt of Courts Act.

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8. That the inaction on the part of the Contemnners is contemptuous and as such this Hon'ble Tribunal may draw up a contempt proceeding under the Contempt of Court's Act and protect the interest of the petitioner.

9. That for preservation of the purity of the judicial process as well as for preservation of the rule of law, this petition has been filed for taking appropriate action.

10. That this petition is filed bonafide and for the interest of justice.

It is, therefore, humble prayed that this Hon'ble Tribunal may be graciously pleased to admit this petition, issue notice upon the contemnners to show cause as to why they should not be dealt with in accordance with the appropriate provisions of the Contempt of Courts Act and as to why the appropriate proceedings under the Contempt of Courts Act should not be drawn up against the contemnners and on perusal of the records and upon hearing the parties, cause or causes that may be shown ~~xxxx~~ the Hon'ble Tribunal may be pleased to allow the petition holding the contemnners guilty under the Contempt of Courts Act and punish them accordingly for committing the offence under the Contempt of Courts Act by not complying with the Hon'ble Tribunal's order dated 11.2.2000 and/or pass further or other orders as to this Hon'ble Tribunal may seem fit and

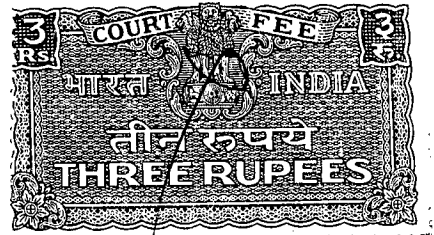
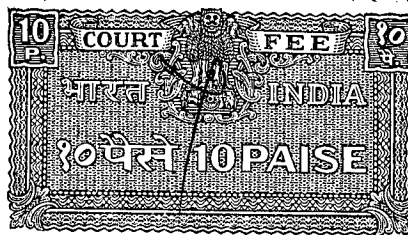
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proper under the facts and circumstances
of the case.

And for this act of your kindness the petitioner as in
duty bound shall ever pray.

... Affidavit... 7



A F F I D A V I T

I, Shri Nagen Chandra Deka, son of Late K.R.Deka, resident of Railway Quarter No.180/B, East Maligaon PO Guwahati-781011 within the district of Kamrup, Assam aged about 44 years, by profession service do hereby solemnly affirm and state as follows :-

1. That ~~the statements made~~ I am the applicant of the foregoing petition and as such I am fully conversant with the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs 1 of the petition are true to my knowledge, those made in paragraphs 2 being matters derived therefrom are true to the best of my knowledge and belief and the rest are my humble submissions made before this Hon'ble Tribunal.

I sign this affidavit today, the 3rd day of March, 2000 at Guwahati.

Identified by

A. B. D.

Advocate's ~~at~~ ~~at~~

3-3-2000

DEPONENT.

Nagen Ch Deka

Solemnly affirmed and declared before me by the Deponent who is identified by A. B. D. Advocate at 2.40 PM on 7.3.00

[Signature]
7/3/00

- 8 -

DRAFT CHARGE

The applicant aggrieved for non-compliance of the Hon'ble Tribunal's Interim order dated 11.2.2000 passed in O.A.No.40/2000. The contemnors/Respondents have willfully, deliberately violated the Order passed in O.A. No.40/2000 by not implementing the direction contained therein till date. Accordingly, the respondents/contemnors are liable for Contempt of Court proceeding and serve punishment thereof as provided under the law.

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In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

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ORDER SHEET
APPLICATION NO. 40/2000 OF 199

Applicant(s) Nagem Ch. Deka.

Respondent(s) Union of India and O.K.S.

Advocate for Applicant(s) Mr. S. Huda.

Mr. A. Hui.

Advocate for Respondent(s)

C. G. S. C.

11-2-2000

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

Heard Mr. S. Huda learned counsel for the applicant and Mr. J. L. Sarkar learned counsel the Railway.

Application is admitted. Issue notice on the respondents by registered post. Returnable by 4 weeks.

Mr. S. Huda learned counsel prays for an interim order. Mr. J. L. Sarkar learned Railway counsel has no instructions in this regard. Issue notice to show cause as to why the interim order shall not be granted.

contd/-

9 17
O.A. 40 of 2000

Notes of the Registry

Date

Order of the Tribunal

11-2-2000

Meanwhile, the order of transfer Annexure 1, shall remain suspended until further orders. List on 10.3.2000 for orders.

Sd/VICECHARMAN

Certified to be true Copy
प्रमाणित प्रतिलिपि

M. M. L.
11/2/2000
Deputy Registrar (U)
Central Administrative Tribunal
Calcutta Bench

To

The General Manager (P)
N.F. Railway, Maligaon.

Sub: Implementation of order dated 11.2.2000
passed in O.A. No. 40/2000 by the Hon'ble
Central Administrative Tribunal, Guwahati
Bench, Guwahati.

Respected Sir,

I beg to state as follows:

- 1) That Sir, I have been transferred and posted as A.P.O. at Guwahati on 12.5.1999 and on and from 12.5.99 I discharged my duties sincerely and honestly to the satisfaction of the authority concerned.
- 2) That Sir, on 24.9.1999 the General Manager (P) transferred me from Guwahati and posted as A.P.O., Luming and, as such, I have filed an Appeal on 29.9.1999 and on 10.12.99 for alteration and/or modification of Transfer Order but no action has been taken by the authority concerned and as such, my wife had also filed an appeal/representation before the authority concerned on 28.12.1999 stating inter alia that she was operated at Apollo Hospital at Madras and the Doctor advised her not to take heavy works and as such she requires my help. On the other hand, I am also suffering from Diabetic and High Blood Pressure. Moreover, the final examination of my son is also approached and my 9 years daughter is also reading in Santi Marry's High School, Maligaon at Class-V standard. These appeal/representation are also lying pending before the authority concerned without any action and, as such, I approached the

Central Administrative Tribunal, Guwahati Bench, Guwahati and filed a case which was numbered as Original Application No. 40/2000 and the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati by order dated 11.2.2000 suspended the Transfer Order dated 24.9.1999.

A copy of the order dated 11.2.2000 is annexed as Annexure-A for your ready reference.

Under the facts and circumstances it is, therefore, prayed that Your honour may be pleased to implement the order dated 11.2.2000 and allow me to continue as A.P.O. at Guwahati till disposal of the Original Application No. 40 of 2000.

Thanking you,

Mours faithfully,

Date: 14.2.2000.

(Nagen Chandra Deka)
A.P.O., Guwahati.