

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

Contempt APPLICATION NO. 29 OF 2001

APPLICANT (s) Sr. T. J. Singh & Others
in O.A. 87/2000

RESPONDENT (s) V. Chitalay, C.P.G and G. Niam, DPS, Manipur

ADVOCATE FOR APPLICANT(s) Mr. B.K. Sharma, Mr. U.K. Nair

ADVOCATE FOR RESPONDENT(s) Mr. B.C. Pathak, addl. case.

By: BX. Talukdar

Notes of the Registry	dated	Order of the Tribunal
This Contempt application has been filed by the counsel for the petitioner, prompting for non-compliance of the Court order dated 23.2.2001 passed by this Hon'ble Tribunal in O.A. 87/2000.	27.7.01	Issue notice to show cause as to why the contempt proceeding shall not be initiated against the alleged contemners. List on 31-8-2001 for order.
Laid before the Hon'ble Court for further order.	31.8.01	Agg. to the order passed in 23.2.2001 in O.A. 87/2001, the respondents have filed a writ application before High Court which was numbered and registered as W.P.(C) 4091/2001. The operation of the judgement and order of the Bench in above case had been stayed by the High Court. In this circumstances, the application stands dropped.
Notice prepared and sent to D/S for writing the letter dated No. 182 by Regd. A.D. with D/N No 2885786 on 2/8/01 2/8/01	31.8.01	Against the order passed in 23.2.2001 in O.A. 87/2001, the respondents have filed a writ application before High Court which was numbered and registered as W.P.(C) 4091/2001 wherein the operation of the judgement and order of the Bench in above case had been stayed by the High Court. In this circumstances, the contempt application stands dismissed.

12.9.2011

copy of the order
has been sent to
the D/Sec. for IS/NS
The same to the L/Adm
for the parties.

SL

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FILED BY:
The Petitioners
Through:
Unni Krishnam Nair
Advocate,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

C.P. No. 29 of 2001

IN THE MATTER OF :

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

- AND -

IN THE MATTER OF :

Judgment and order dated 23.2.2001 passed in O.A. No. 87/2000 (Shri T. Jilangamba Singh & 2 Ors. -Vs- Union of India & Ors.)

- AND -

IN THE MATTER OF :

Willful and deliberate violation of the said order dated 23.2.2001.

- AND -

IN THE MATTER OF :

1. Shri T. Jilangamba Singh, Son of Late T. Kunjabihari Singh, resident of Sagolband Thiym Laikei, P.O. & P.S. Imphal, working as Extra-Departmental Branch Post Master, Sagolband EDBO, Manipur.

2. Md. Tahir Ali, S/O Md. Kasim Ali, resident of Kwakta village, P.O. & P.S. Moirang, working as Extra Departmental Branch Post Master, Kwakta EDBO, Manipur.

3. Shri N. Mchesh Singh, S/O N. Achou Singh, resident of Khordak Ichia village, P.O. & P.S. Moirang, working as Extra-Departmental Mail Carrier, Khordak Ichia EDBO, Manipur.

... Petitioners

- Versus -

1. Shri V. Chitaley, Chief Postmaster General, N.E. Circle, Shillong-793001.

2. Shri G. Nian, Director of Postal Services, Manipur, Imphal-795001.

... Contemnners/Respondents

The humble petition on behalf
of the abovenamed Petitioners

MOST RESPECTFULLY SHEWETH :

1. That the Petitioners being aggrieved by their non-promotion as Postman insptie of they being qualified for the same. As per the departmental norms, the Petitioners who are surplus qualified extra-

departmental Agents are required to be accommodated in any of the neighbouring areas/divisions, if there is no vacancy in their parent division. Since the Respondents did not promote the Petitioners as per the said norms and was dilly dallying with the matter, the Applicants had no other alternative than to approach this Hon'ble Tribunal firstly by filing O.A. No. 243/99 and thereafter by filing yet another O.A. being O.A. No. 87/2000. The O.A. No. 243/99 was disposed of with a direction to consider the case of the Petitioners. However, when the case of the Petitioners was not considered, the Petitioners once again approached this Hon'ble Tribunal by filing O.A. No. 87/2000 which was disposed of by an order dated 23.2.2001 with the clear direction to complete the exercise as indicated in the order towards appointment/promotion of the Petitioners within a period of three months.

A copy of the said order dated 23.2.2001 is annexed as ANNEXURE-1.

2. That the Respondents inspite of receipt of the copy of the said order in the last part of February 2001, have not done anything in the matter and the Petitioners still continue to suffer for the apathy shown by the said Respondents. The exercise which was directed to be carried out by this Hon'ble Tribunal in its order dated 23.2.2001 passed in O.A. No. 87/2000 towards appointment/promotion of the Petitioners they being qualified extra-departmental agents, is yet to be carried out by the said Respondents and they are sitting over the matter without doing anything.

3. That the Petitioners submitted the copy of the said judgment to the Respondents personally apart from receiving the said judgment by the Respondents themselves. In addition, the copy of the judgment was once again sent to the Respondents by the Advocate of the Petitioners, by his letter dated 8.3.2001 urging upon the said Respondents to give posting to the Petitioners as per their option in the Divisions like Arunachal, Meghalaya or elsewhere. However, no response has been shown to the said letter sent by the Advocate of the Petitioners. After service of the said letter also, the Petitioners have personally met the said Respondents urging for implementation of the order of this Hon'ble Tribunal. However, no response has been shown to the said order of this Hon'ble Tribunal.

4. That the aforesaid conduct of the Respondents has made them liable for contempt of this Hon'ble Tribunal. It is a clear case of willful violation of the said order of the Hon'ble Tribunal. Inspite of repeated approach by the Petitioners, the said Respondents have not shown any regard to the order of this Hon'ble Tribunal. The time limit fixed by the Hon'ble Tribunal in the said order has already expired and no action has been taken by the said Respondents. To the best of knowledge of the Petitioners, the Respondents have not initiated any action towards carrying out the exercise as directed by this Hon'ble Tribunal and are simply sitting over the matter.

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5. That above being the position in the matter of the order dated 23.2.2001 passed in O.A. No. 87/2000, the Petitioners are left with no alternative than to approach this Hon'ble Tribunal for initiating contempt of court proceeding against the Respondents coupled with invoking its power under Rule 24 of the CAT (Procedure) Rules, 1987 towards implementation of the said order.

6. That the Respondents being guilty of willful and deliberate violation of the order dated 23.2.2001 passed in O.A. No. 87/2000, they are liable for prosecution and consequential punishment as per the provisions of the contempt of court Act and Section 17 of the Administrative Tribunals Act, 1985. Apart of initiating contempt of Court proceeding and imposition of punishment on the Respondents, the order dated 23.2.2001 is required to be implemented/executed in the manner and method as has been provided for under Rule 24 of the said Rules to give complete justice to the Petitioners.

7. That this application has been filed 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 to the Respondents calling upon them as to why contempt of Court proceeding shall not be drawn up against each and every one of them for willful and deliberate

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violation of the judgment and order dated 23.2.2001 passed in O.A. No. 87/2000 and upon hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to pass appropriate order thereon punishing the Respondents and further be pleased to pass necessary order under Rule 24 of the C.A.T. (Procedure) Rules, 1987 towards effective implementation of the said judgment without any further delay and/or be pleased to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper.

And for this, the Petitioners as in duty bound, shall ever pray.

Affidavit....



A F F I D A V I T

I, Shri T. Jilangamba Singh, aged about 23 years, son of Late T. Kunjabihari Singh, resident of Sagolband Thiyam Laikei, P.O. & P.S. Imphal, working as Extra-Departmental Branch Post Master, Sagolband EDBO, Manipur, do hereby solemnly affirm and state as follows:

1. That I am the Petitioner in the present petition, conversant with the facts and circumstances of the case and therefore competent to swear this affidavit. I am also authorised by the other Petitioners to swear this affidavit on their behalf.

3. That the statements made in this affidavit and in the accompanying petition in paragraphs 2, 3, 4 and 7 are true to my knowledge ; those made in paragraphs 1 being matters of records are true to my information derived therefrom and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the _____ th day of July 2001.

Identified by me :
U.K. Nain
(U.K. NAIN)
Advocate

T. Jilangamba Singh.

Deponent

Solemnly affirmed and declared before me by the deponent who is identified by Shri U.K. Nain, Advocate on this the 23rd day of July 2001.

B. R. Tahwadze
Advocate

DRAFT CHARGE

The Respondents are guilty of willful and deliberate violation of the order dated 23.2.2001 passed in O.A. No. 87/2000 inasmuch as inspite of repeated approach by the Petitioners, the said Respondents have not done anything in the matter although as per the said order, same was to be executed within a period of three months from the date of receipt of the copy of the order which has since long expired.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure-1

Original Application No. 87 of 2000.

Date of Order : This the 23rd day of February, 2001.

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

Hon'ble Mr. K.K.Sharma, Member (A).

1. Shri T. Jilangamba Singh
S/o (L) T. Kunjabihari Singh,
Resident of Sagolband Thiyam Leikai,
P.O. & P.S. Imphal,
Employed as Extra Departmental Branch
Postmaster, Sagolband EDBO, Manipur State.

2. Md. Tahir Ali
S/o Md. Kasim Ali,
resident of Kwakta village,
P.O. & P.S. Moirang,
Employed as Extra Departmental Branch
Postmaster, Kwakta EDBO, Manipur State.

Shri N. Nohesh Singh
S/o N. Achou Singh,
Resident of Khordok Ichin village,
P.O. & P.S. Moirang
Employed as Extra Departmental Mail
Carrier, Khordok Ichin EDBO, Manipur State.

...Applicants

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India,

2. The Chief Postmaster General,
North Eastern Circle,
Shillong-793001.

3. The Director of Postal Services,
Manipur,
Imphal-795001.

...Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

The only controversy raised in this application
relates to absorption of the surplus Extra Departmental

Contd..

*Amended
Ami. (u.k. nair)
Advocate*

Agents of Manipur Division. The three applicants who are surplus qualified candidate and by this application seek for a direction for their absorption on promotion to the post of Postman. These applicants approached earlier before the Tribunal. The Tribunal in its order dated 17.8.99 in O.A. No. 241/99 directed to consider the case of the applicants. The respondents by its order dated 15.11.99 disposed of the representation.

2. Mr. B.K.Sharma, Learned Senior Counsel appearing on behalf of the applicants mainly emphasized on the fact that as per the departmental norms the surplus qualified Extra Departmental Agents could be accommodated in any of the neighbouring rooms. The respondents in its order dated 15.11.99 mentioned about the proposed action for filling up of the post. The relevant portion of paragraph 2. (ii) of the order dated 15.11.99 is reproduced below :

"(ii) As per the instructions contained in Department of Posts Notification No. 44-31/87-SBP-1 dated 06.07.89, the unfilled vacancies of Postman cadre of a division may be filled up by surplus qualified candidates of other divisions in the Region on the basis of a common regional merit list. In the North-Eastern Postal Circle there are two Regions, i.e. PMG's Region consisting of divisions in the States of Manipur, Mizoram and Nagaland and CPMG's Region consisting of divisions in the States of Arunachal Pradesh, Meghalaya and Tripura. However, the provision of recruiting surplus candidates from other divisions has not been resorted to in this Circle earlier due to the perceived difficulties likely to be faced by the candidates of one State going and working in another State in the cadre of Postman. However, considering the willingness of some candidates, who have represented for their absorption in other divisions, it was decided to offer one unfilled ST vacancy of Mizoram Division to the surplus qualified ST candidate of Manipur and Nagaland divisions falling within the Region of PMG on the basis of common regional merit list, subject to willingness of such candidates. Action has already been taken to ascertain the willingness of such candidates and seniormost willing ST candidate will be allotted to Mizoram Division."

Contd...

From the aforementioned paragraph it appears that the respondents only thought of filling up of the ST vacancy of Mizoram Division by the surplus candidates from Manipur and Nagaland. Mr. B.C. Pathak, learned Addl. C.G.S.C. however, submitted that against the vacancies in the neighbouring states surplus qualified candidates may be accommodated subject to availability of vacancy. Rules and policy are made to fill up the post by manning those posts. The respondents are to take care for appointing persons from the respective area on administrative exigencies. However, Rules also provides for accommodating the qualified candidates from neighbouring states. In these circumstances we are of the view that the case of the applicants are required to be considered in the light of policy decision. The applicants are found qualified. Therefore it is an appropriate case for the respondent authority to consider their appointment on promotion to the post of Postman in any of the Division in the Region keeping in mind the policy, guidelines and norms of the department. Mr. Sharma, learned Sr. Counsel for the applicants has submitted that these applicants have given their choice for appointment either in Arunachal Pradesh or in Meghalaya. The respondents are to consider their cases subject to availability of posts and administrative exigency for posting them in these areas or if not anywhere keeping in mind its policy decision.

3. The application is allowed to the extent indicated above. There shall, however no order as to costs. The respondents are directed to complete the above exercise within a period of three months from the date of receipt of a certified copy of this order.

Sd/VICE CHAIRMAN

Sd/MEMBER(A)

TRUE COPY
Sd/MEMBER(A)

(JCNLW) 12/12/2001
Bachan Court, 11th Floor
Central Administrative Tribunal
Delhi-110054
Date: 12/12/2001
Time: 11:00 AM