

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH,
GUWAHATI.

ORDER SHEET

Original No. _____

Misc. Petition No. _____

Contempt Petition No. 40 /2002 (OA 17/2002)

Review Application No. _____

Applicant(s) Dr. A.K. Samnigrahi

Respondent(s) Dr. S.C. Das

Advocate for Applicant(s) Mr A.K. Roy & Mr I. Gogoi

Advocate for Respondent(s) _____

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
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This Contempt
Petition has been
filed by the applicant
with a prayer for
u/s. 11 and 12 of the
Contempt of Court Act,
1971 read with s.
17 of the A.T.A.
1985.

18.3.02 Heard Mr. I. Gogoi, learned counsel
for the applicant.
Issue notice to show cause as to
why the Contempt Proceeding shall not be
initiated.
List on 23.4.2002 for order.

18.3.02
Laid before
Hon'ble Comt by
Counsel
Section Officer
N.B.
18.3.02
bb

18.3.02
List the case on 15.5.002 enabling the
respondents to obtain necessary instruction
on the matter.

I.C. Usha
Member

Vice-Chairman

23.4.2002
Laid before
Hon'ble Comt by
Counsel
Section Officer
N.B.
18.3.02
bb

23.4.2002
List the case on 15.5.002 enabling the
respondents to obtain necessary instruction
on the matter.

Vice-Chairman

Notice prepared and
sent to D/o for filing
the respondent No. 1.
by Regd A/o.

20/3/02

D/o No 902
Dt 26/3/02

Show cause has not
yet filed.

3/4/02

Show cause has not
been filed.

7/5/02

No Show cause has
been filed.

14/5/02

No reply has been
filed.

5/6/02

15.5.02

No reply so far is forthcoming.

List on 6.6.2002 to enable the Respondents to file its reply if any.

I.C. Shar
Member

Vice-Chairman

mb

6.6.02

It has been stated by the

learned counsel for the petitioner/respondents that the matter is pending before the High Court against the order dated 29.1.2001 passed in O.A.No.17 of 2000. The respondents preferred an appeal before the High Court and the notice of motion has been issued in the Writ Petition (Civil) No.2525/2002. The operation of the judgment and order dated 29.01.2001 passed in O.A.No.17 of 2000 has been suspended.

Accordingly, Contempt Petition stands disposed of at this stage.

Member

Vice-Chairman

lm

6.6.02

It has been stated by the learned counsel for the petitioner/respondents that against the judgment and order dated 29.1.2001 passed in O.A.No.17 of 2000, the applicant moved the High Court by way of a Writ Application. The Hon'ble High Court issued a Notice of Motion in the Writ Petition (C) No. 2525/2002. The operation of the Judgment and order dated 29.1.2001 passed in O.A.No.17 of 2000 also has been suspended.

In that view of the matter the Contempt Petition stands dismissed.

I.C. Shar
Member

Vice-Chairman

lm

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Filed by the applicant
through —
Ganeshil Gogoi
Advocate, 11/03/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH

CONTEMPT ORIGINAL PETITION

10

/2002

IN OLA. No. 17/2000.

Dr. A.K. Sannigrahi

Scientist 'C'

Defence Research Laboratory

Tezpur (Assam).

...Applicant.

-Versus-

1. Dr. S.C. Das,

Director,

Defence Research Laboratory,

Post Bag No. 2,

Tezpur, Assam.

...Respondents.

-AND-

IN THE MATTER OF:

An application under Section 11 and
12 of the Contempt of Court Act,
1971 read with Section 17 of the
Administrative Tribunal Act, 1985
for contempt of Court.

contd..

2.

-AND-

IN THE MATTER OF:-

Wilful violation and non-compliance
of the order dated 29.1.2001 passed
by the Hon'ble Central Administrative
Tribunal in O.A. No.17/2000.

The humble application of the
applicant above - name :-

MOST RESPECTFULLY SHEWETH:-

1. That, the applicant is holding the post
of Scientist 'B' group 'A' Gazette post under the
respondents. The applicant is a resident of Midna-
pur, State of West Bengal and he applied for the
post of Scientist 'B' under the Ministry of
Defence, Defence Research and Development Organiza-
tion and in due course was selected and appointed
to the post by an order dated 31.8.89 and was
directed to report for duty to the Director of
Defence Research Laboratory, Tezpur. The applicant
accordingly joined the post on 8.5.1989 and was
also paid Special (Duty) Allowance as was ad-
missible to the Central Govt. Civilian Employees.
However, the said allowance was suddenly stopped

contd..

3.

by the respondents from October, 1996. The applicant applied and approached to the authority for continuation of the said allowance but failed to get any relief from the respondents, approached this Hon'ble Tribunal by filling an original Application No.17/2000. This Hon'ble Tribunal was pleased to dispose of the said Original Application by an order dated 29.1.2001 directing the respondents to pay Special (Duty) Allowance with effect from October, 1996, i.e. from the date the applicant was denied special (Duty) Allowance within a period of three months from the date of the order.

One copy of the said order dated 29.1.2001 is annexed herewith as Annexure-A.

2. That, immediately after receiving the copy of the order dated 29.1.2001, the applicant furnish the same to the respondents with an application on 12.2.2001, requesting the respondents for compliance with the order of this Hon'ble Tribunal. But, after waiting for nearly about three months, the applicant finding that the respondents are not taking any effective steps to implement the order of this Hon'ble Tribunal, submitted another application on 1.5.2001 to the respondent No.2,

contd..

requesting the compliance of the order dated 29.1.2001 but same also failed to evoke any response on their part.

Copies of Application dated 12.2.2001 and 1.5.2001 are annexed herewith as Annexure-'B' & C respectively.

3. That, hereafter, the applicant approached the office of the respondent No.2 for number of times to get the result of his representation, but everytime he was diheartend due to the inaction of the respondents. Under such circumstances the applicant intimate one Legal Notice on 21.7.2001 through his Advocate, stating clearly to comply with the order of this Hon'ble Tribunal, but the respondents neither took any effective steps to implement the order nor made any intimation in this regard.

Copy of the Legal Notice dated 21.7.2001 is annexed herewith as Annexure-D.

4. That the applicant after not getting any response from the respondents again submitted separate applications to the respondent no.1 and

5.

respondent no.2 on 9.10.2001 , but the respondents have not till today complied with the order dated 29.1.2001 passed in O.A. No.17/2000 by this Hon'ble Tribunal and accordingly, ten months passed away. Finding the wilful and deliberate negligence on the part of the respondents, the alleged contemnor, the applicant had no other choice but to approach this Hon'ble Tribunal by filing this contempt petition against the respondents for not complying with the order of this Hon'ble Tribunal.

Copies of applications dated 9.10.2001 are annexed herewith as Annexure -E series.

5. That , inspite of repeated approach of the applicant and his request , the respondents did not initiated to comply with the Hon'ble Tribunal's order. The respondents action is a clear violation of the Hon'ble Tribunal's order and directions.

6. That, the respondents are guilty of offence of contempt of Court under the contempt of Court Act read with relevant rules and procedures of the Central Administrative Tribunal

contd..

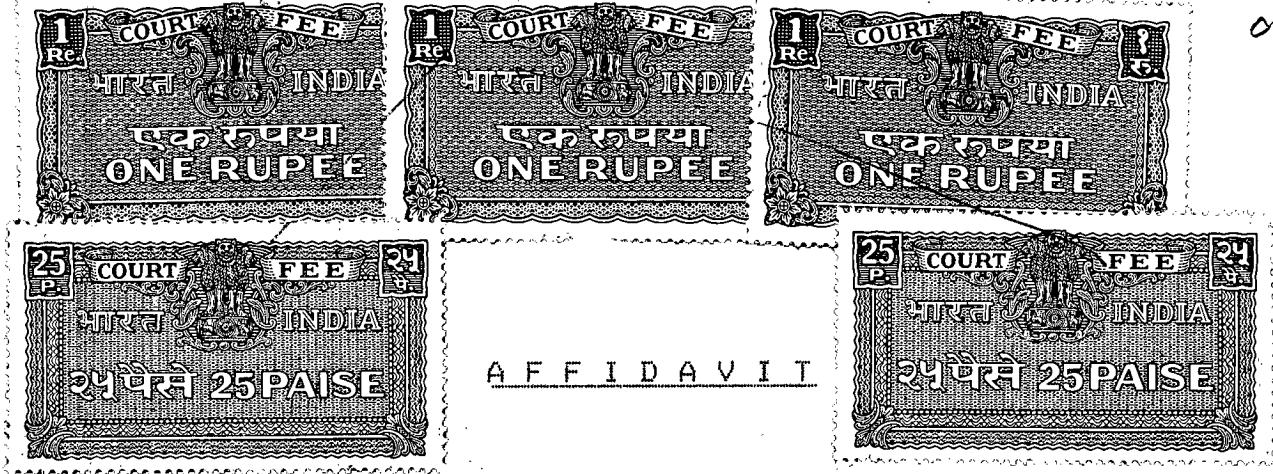
Act, 1985 for wilful and negligent act and for violating the Hon'ble Tribunal's order dated 29.1.2001. The very conduct of the respondents is clearly violation of the Hon'ble Tribunal's order and hence they are liable to be prosecuted and punished for contempt of court's order.

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

In the premises aforesaid, it is therefore prayed that Your Lordships may pleased to admit this application and pass necessary order drawing contempt proceeding against the respondents and after hearing the parties may please to punish them for their wilful and deliberate violation of this Hon'ble Tribunals order and/or be pleased to pass any other further order as Your Lordships may deem fit and proper.

And for this act, as in'duty bound, the applicant shall ever pray.

contd..



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I, Dr. A.K. Sannigrahi, son of S.Ch.Sannigrahi, aged about 42 years, presently residing at Defence Research Laboratory, Tezpur, Assam and I am the applicant in the instant application and I do hereby solemnly affirm and state that the statements made in paragraphs 1 to 7 are true to the best of my knowledge and belief and rest are my humble submission before this Hon'ble Tribunal.

And I sign this affidavit on this the 11th day of March 2002 at Guwahati.

Identified by

Akay.
Advocate Clerk's.

A.K.Sannigrahi.

DEPONENT.

Solemnly affirmed and declare before me by the deponent on being identified by Shri A.K.Roy, Advocate, CAT on this the 11th day of March 2002.

Indranil Gogoi

ADVOCATE.

DRAFT CHARGE

The charge against the contemners is that inspite of the specific direction of this Hon'ble Tribunal to pay the Special (Duty) Allowance to the applicant/petitioner w.e.f. October 1996 i.e. the date from which the applicant was denied Special (Duty) Allowance , in the order dated 29.1.2001 passed in O.A. No.17 of 2000, and inspite of repeated representations from the side of the petitioner, the respondents have neither paid the special (Duty) Allowance nor have passed any order in respect of the same and accordingly they have intentionaly and willfully violated the order dated 29.1.2001 passed in O.A. No.17 of 2000 and hence they are liable to be punished under the contempt of Courts Act, 1971.

ANNEXURE - A

— 9 —

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

SL No. 14

Original Application No. 17 of 2000.

Date of decision : This the 29th day of January, 2001.

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

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

Dr. Asoke Kumar Sannigrahi,
Scientist - 'C'
Defence Research Laboratory,
Tezpur (Assam)

By advocate Mr. A.K. Roy.Applicant

-versus-

1. Union of India,
Represented by the Secretary,
Ministry of Defence, Govt. of India,
'B' Wing, Sena Bhawan,
New Delhi-110 011.

2. The Director,
Department of Personnel (pers-5)
Research and Development Organisation,
Ministry of Defence 'B' Wing, Sena Bhawan,
New Delhi-110 011.

The Director,
Defence Research Laboratory,
Post Bag No.2, Tezpur.

...Respondents

By advocate Mr. B.S. Basumatary, Addl. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

Entitlement of Special (Duty) Allowance is the issue raised in this application. The applicant is holding the post of Scientist 'B' group A Gazetted post under the respondents. The Ministry of Defence, Defence Research and Development Organisation invited applications for a number of posts including for two such posts of Scientists 'B' in different Research Laboratories namely Tezpur and Jodhpur. The applicant is a resident of Midnapore, state of West Bengal applied for the said post and in due course he was selected for the said post. By an order dated 31.8.89 he was appointed to the post and by the same order he was directed

-2-

to report for duty to the Director of Defence Research Laboratory, Tezpur. Pursuant thereto the applicant joined the post on 8.5.89. On his posting the applicant was also paid Special (Duty) Allowance as was admissible to the Central Government Civilian employees. The said allowance was however stopped from October 1996. The applicant applied to the authority for continuation of the said allowance, failing to get any relief from the authority the applicant moved this application.

2. The respondents denied and disputed the claim of the applicant. According to the respondents the applicant was recruited as Scientist 'B' for Defence Research Laboratory, Tezpur as per the advertisement No. 17/RAC/88 published by the Recruitment and Assessment Centre, New Delhi, an agency responsible for recruitment of personnel in Defence Research and Development Organisation. The applicant who was a Senior Research Assistant at All India Soil and Land Use Survey, Bagalore before joining the post of Scientist 'B'. According to the respondents the applicant was not eligible for grant of Special (Duty) Allowance and for that purpose referred to the decision of the Supreme Court in Civil Appeal No. 3251/93 and some of the Government instructions issued from time to time.

3. We have heard Mr. A.K.Roy, learned counsel appearing on behalf of the applicant and Mr. B.S. Basumatary, learned Addl. C.G.C.S. for the respondents. Admittedly the applicant is a person hailing from Midnapore, West Bengal i.e. outside the North Eastern Region. His selection was made through all India selection. The applicant on selection was posted at Defence Research Laboratory, Tezpur. He had to move to Tezpur on posting. Mr. A.K.Roy, learned counsel for the applicant has drawn our attention to the decision rendered by this

Contd..

-3-

Tribunal in O.A. No.136 of 2000 (Santosh Kumar N.V., vs. Union of India & Ors.) decided on 20.12.2000.

4. Considering all the aspects of the matter and on perusal of the Government Policy we are of the view that the applicant is entitled to the benefit of Special (Duty) Allowance and the impugned action of the respondents to exclude the applicant from the benefit of Special (Duty) Allowance are not justified. Accordingly the respondents are directed to pay Special (Duty) Allowance to the applicant with effect from October, 1996 i.e. from the date the applicant was denied Special (Duty) Allowance. The above exercise shall be completed by the respondents as early as possible preferably within a period of three months from today.

The application is accordingly allowed. There shall, however, no order as to costs.

Sd/- VICE CHAIRMAN
Sd/- MEMBER

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (S)

आनुसाध अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकारी
Guwahati Bench, Guwahati

स. १०८ वार्षिक, नवांगठी

attested by
Gadswail Dugar
Advocate

ANNEXURE - B

— 12 —

To

The Director
Defence Research Laboratory
Tezpur/

Sub : S.D.A.

Ref : Original Application No 17 of 2000.

Sri,

I have the honour to forward herewith a copy of judgment, and order passed by Central Administrative Tribunal, Guwahati via O.A. No. 17 of 2000 on 29th January' 2001 for onward action from your end.

The Hon'ble CAT has turned down the contention of the Department and upheld my contention with a direction to pay my SDA with effect from October' 1996, which was denied to me by the department.

It is, therefore, prayed to immediately pay my dues along with interest within three (3) months as per direction for which act of your kindness I shall be ever grateful to you.

Thanking you,

Yours faithfully,

Sd/-
(Dr. A.K. Sannigrahi)

Copy to :-

Sc 'D'.

Registrar

CAT, Guwahati for information.

Date : 12.02.2001.

Attested by
Gurcharan Singh
Advocate

ANNEXURE - "C"

To
The Director,
Defence Research Laboratory,
Tezpur

Subject : Special Duty Allowance

Reference : I) Original application No. 17 of 2000
II) My application dated 12.2.2001

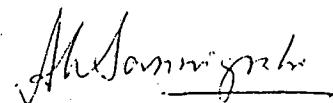
Sir,

With reference to the application referred above, I once again draw your kind attention to give the effect of order and judgement passed by Honourable Central Administrative Tribunal (CAT) , Guwahati in OA No. 17 of 2000 on 29th January, 2001 as per the direction reflected in the order. It is, therefore, prayed that your honour would be kind enough to look into the matter as three months is already passed.

An early action in this matter is highly solicited.

For this act of kindness I shall be ever grateful to you.

Yours faithfully,



(Dr. A. K. SANNIGRAHI)
Scientist 'D'

Attested by
Gurcharan Dugar
Advocate

Place : Tezpur

Date : 13.3.2001

ANNEXURE - D

— 14 —

Hash Chandra Biswas
M. A, LL.B

AT TEZPUR COURT
ATE GAUHATI HIGH COURT

DURGA BHABAN
Jawaharlal Nehru Road.
P.O. Tezpur - 784001
ASSAM
STD CODE - 03712
Phone No :—Bar 20358
Resi. 26772 / 22398
TELEX No. 2303206 PCOIN
FAX No. 03713 20200

Date 21/07/2001

Registered with A/D

1. Director General & Scientific Adviser to
Ministry of Defence,
Govt. of India,
NEW DELHI
2. Director
Defence Research Laboratory
Solmara, Tezpur

Sir,

Under instructions of my Client Dr. A.K. Sanigrahi
a Scientist - D of Defence Research Laboratory, Tezpur, I would like
to intimate you as under :

That my Client had approached before Central Administrative Tribunal Gauhati for getting ^{SDA to} him and Hon'ble CAT in its Judgement in O-A NO. 17/2001 dated 29th January 2001 had passed an Order and Judgement wherein it was held that my Client Shri Sanigrahi is entitled to get SDA as per the provisions of law.

That after the Judgement & Order my Client formally approached to you and handed over a Judgement for due compliance of the same but you have not done anything till today to Honour the order and Judgement of the CAT Gauhati and thereby willfully dishonouring the order of the Court.

That thereafter my Client on different occasion made several representations for the compliance of the order of the CAT but that too failed to get any respond from your end for which my Client is frustrated.

Contd.

Subhash Chandra Biswas

M. A, LL.B

ADVOCATE TEZPUR COURT

ADVOCATE GAUHATI HIGH COURT

DURGA BHABAN
Jawaharlal Nehru Road.
P.O. Tezpur - 784001

ASSAM
STD CODE - 03712
Phone No :—Dar 20358
Resi - 20772 / 22398
TELEX No. 2303206 PCOIN
FAX No. 03713 20200

- 2 -

Date - - - - -

That it appears that you are willfully dishonouring the Order of the CAT passed in favour of my Client which is amount to contempt of Court and a bad precedent on the part of the Govt. Officer.

I therefore once again intimate you to comply with the order of the CAT within 15 days from the date of the receipt of this letter, otherwise my client will have no other alternative but to file a contempt petition before the Hon'ble Tribunal for willful non compliance of the order of the CAT and in that event you will be responsible for all the consequences which please note.

Yours faithfully,

(S.C. Biswas)
Advocate
GAUHATI HIGH COURT

attested by
Gurdanil Gogoi
Advocate

ANNEXURE — "E"

To

**The Scientific Advisor to Raksha Mantri,
&
Secretary, Defence R & D Organisation,
Ministry of Defence, South Block,
New Delhi – 110 011**

(Through The Director, Defence Research Laboratory, Tezpur)

Subject : Special Duty Allowance (SDA) for serving in Northeast

Respected Sir,

With due respect I would like to draw your kind attention to following facts.

- ⇒ I was doing Central Government service in All India Soil & Land Use Survey, Bangalore since 11th January, 1984. I applied through proper channel for the post of Scientist 'B' required for DRDO laboratories at Jodhpur and Tezpur advertised by RAC (advertisement No. 017/RAC/88, item No. 42.) and selected for DRDO. After medical examination I was informed to join in DRL, Tezpur. Accordingly I submitted my technical resignation in previous post for getting release order and joined DRL, Tezpur on 8th May, 1989. My previous service is continued and also received joining time pay as per Central government rule. Hence, my service is transferred from Bangalore to Tezpur, Ministry of Agriculture to Ministry of Defence, Outside of northeast to northeastern region.
- ⇒ After serving DRL, Tezpur upto 07 August, 1991 I was transferred to DRL Detachment at Salari in Arunachal Pradesh as Officer in charge from 08.8.91 to 18.02.94 by DRDO HQ and then to other detachment at Rangapahar, Nagaland from 19.02.94 to 02.05. 95, and finally to Tezpur, Assam from 03.05.95 to till date.
- ⇒ I am not a resident of northeastern region
- ⇒ I was not locally recruited for DRL, Tezpur.

- ⇒ I received the special duty Allowance up to September, 1996 and was stopped suddenly without giving any reason. There was no audit objection against me. The objection was for paying SDA to local residents.
- ⇒ I submitted my application with a request to consider my SDA on 26th August, 1997 and reminder afterwards on 23rd July, 1998, 05th July, 1999 and 24th August, 1999.
- ⇒ Along with my application dated 05th July, 1999 I also submitted a copy of guidelines for eligibility of SDA serving in NE region, issued by Deputy Commissioner (Finance) for Kendriya Vidyalaya Sangathan, the other Central government organisation (Vide letter No. F/130-46/KVS/Budget dated 4/5 March, 1999). In that letter it is clearly mentioned that even on direct recruitment, candidates belonging from outside NE region, are entitled for SDA. SDA is not applicable to any particular organisation as a special case, it is applicable to all outside central government employees working in Northeastern region.
- ⇒ After getting no favourable response since 1997, I was compelled to apply to Hon'able Central Administrative Tribunal, Guwahati on 20.01.2000 for justice.
- ⇒ DRL wrote to CDA, CDA wrote to CGDA and CGDA wrote to Ministry of Defence for clarification on my eligibility for SDA.
- ⇒ The CGDA in his letter No. ATC/1326/MH/PF dated 31.3.2000 has clarified that Ministry of Defence to whom the matter of SDA eligibility was referred has stated that when a person is recruited from a place outside the NER and is posted to NER on his selection, irrespective of whether he had applied specifically for the post in NER, SDA may be payable as the purpose of SDA is to compensate for the various hardship in NER which a resident of the other region is not accustomed to. This indicates that I am eligible for SDA.
- ⇒ The Hon'able Central Administrative Tribunal, Guwahati in his judgement on 29.01.2001 also clearly directed to pay the SDA to the undersigned with effect from October, 1996 and to exercise preferably with in a period of three months.

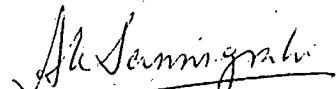
- ⇒ At present 9 months have been passed of that judgement. I have also requested to pay my SDA through two applications dated 12.02.2001 and 01.5.2001. But till now I have not received the SDA.
- ⇒ The verdicts of three Apex bodies are in favour of me for payment of SDA.
 1. The guidelines of the Ministry of Finance is there.
 2. The clarification on my eligibility to SDA is given by the Ministry of Defence..
 3. The judgement of Hon'able CAT has been received.

But till today the same has not been cleared.
- ⇒ In DRL, Tezpur, there is no other employee who is outsider of NER, joined after doing other Central government service and previous service is counted for pension and other benefits, already transferred to other two states and served but denied for SDA. Hence, the doubt that further financial impact may arise to give SDA to other employees if the judgement is accepted, is not realistic.
- ⇒ No doubt, the denial of paying SDA to me for last five years has frustrated me. If I do not get kind consideration from your end, I will have no other alternative but to approach again to Hon'able Tribunal to file a contempt petition for non compliance of the order of Hon'able CAT.
- ⇒ It is, therefore, prayed that your honour would be kind enough to look into the matter and to consider my SDA at the earliest.

For this act of kindness I shall be ever grateful to you.

With regards,

Yours faithfully,



(Dr. A. K. SANNIGRAHI)

Scientist 'D'

Defence Research Laboratory

Tezpur, Assam

Place: Tezpur
Date: 09.10.01

Attested by
Gurdanil Gogoi
Advocate