

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI  
....

ORDER SHEET

Original Application No : \_\_\_\_\_  
Misc. Petition No. \_\_\_\_\_  
Contempt Petition No. 42/2002 (CA 38/2000)  
Review Application No. \_\_\_\_\_

Applicant (s) Sri N.K. Arjun Kanungo

-Vs-

Respondent (s) Sri H.W. Provost & sons.

Advocate for the Applicant (s) Mr J.L. Sarma, A. Chakrabarty.

Advocate for the Respondent(s) A. Deb Roy for CA 38

Notes of the Registry

Date

Order of the Tribunal

This contempt petition has been filed by the Applicant u/s 17 of the Admin. Tribunals Act, 1985 for initiation of a contempt proceeding against the alleged contemners in non-compliance of the Common judgment and order dated 31.07.01 passed in CA. 38/2000.

20.9.02

Heard learned counsel for the parties.

Issue notice on the respondents to show cause as to why the Contempt proceedings shall not be initiated against the alleged contemners.

List on 7.11.02 for orders.

[Signature]  
Vice-Chairman

lm

7.11.02

None appears for the applicant. List on 10.12.02 for orders.

[Signature]  
Member

[Signature]  
Vice-Chairman

lm

7.11.02.

[Signature]  
SO (J)

Deputy Register to call for explanation from the concerned officer as to why noti-

ces were not sent and  
steps were not taken as  
per order dated 20.9.02.

~~11.11.02~~

10.12.02

None appears for the applicant.

List again on 8.1.2003 for orders.

By Order.

Member

mb

Steps Received today.  
Notice prepared and  
sent to all for filing  
the Respondent No.  
1 & 2 by Regd. A.D.

8.1.03 present : The Hon'ble Mr Justice V.S.  
Aggarwal, Chairman.

The Hon'ble Mr K.K.Sharma,  
Administrative Member.

At the request of Mr S.Dutta, learned  
counsel appearing on behalf of Mr J.L.  
Sarkar, learned counsel for the applicant  
list it on 6.2.03 for order.

Member

Chairman

No. reply has been  
filed.

pg

6.2.03 None appears for the applicant. No  
reply filed by the respondents.  
List on 6.3.03 for order.

Member

Vice-Chairman

No. reply has been  
filed.

pg

6.3.2003. Court did not sit today. The  
Case is adjourned to 26/3/2003.

26.3.2003

Service is complete. The respond-  
ents are yet to file reply. List on  
30.4.2003 for reply.

Member


Vice-Chairman

mb

No. reply has been  
filed.

29.4.03.

30.4.2003 No reply so far filed by the respondents. Put up again on 22.5.2003 to enable the respondents to file reply, if any.

  
Vice-Chairman

mb

22.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.  
The Hon'ble Mr. S.K. Hajra, Administrative Member.

No reply so far filed by the respondents though time granted nor any steps taken by any of the respondents. Let the respondent No.1 Sri Herbert Wilson Trevor appear in person to explain on 24.6.2003.

List on 24.6.2003 for orders.

Member

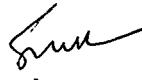
  
Vice-Chairman

22.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.  
The Hon'ble Mr. S.K. Hajra, Administrative Member.

No reply so far filed though time granted nor any steps taken by any of the respondents. The respondent No.1 Sri Herbert Wilson Trevor is ordered to appear in person to explain on 24.6.2003.

List on 24.6.2003 for orders.

A copy of the order be also furnished to Mr. B.C. Pathak, learned Addl. C.G.S.C. for taking necessary steps.

  
Member

  
Vice-Chairman

mb

No reply has been filed.

21/5/03

Pl. copy, under  
date 22/5/03

22/5/03

Copy of order dtd 22/5/03  
Communicated to Respondent  
No. 1. & Sri B.C. Pathak.  
Addl. case.

23/5

24.6.2003

Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents stated that he is yet to communicate the order dated 22.5.2003 and therefore, prays for time to communicate the same. Put up again on 25.7.2003 for personal appearance and further orders.

Office may also send a copy of the order to respondent No.1 Sri Herbert Wilson Trevor Syiem, The Secretary, North Eastern Council, Taxation Building, Shillong.

Vice-Chairman

mb

25.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.  
The Hon'ble Mr. N.D. Dayal, Member (A).

Put up again on 6.8.2003 to Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents to obtain necessary instruction.

Member

Vice-Chairman

mb

6.8.2003 Perused the affidavit filed by Sri P.L. Thanga, Planning Adviser, North Eastern Council, Shillong and also Mr. heard Mr. A. Deb Roy, learned Sr. C.G.S.C. on behalf of the respondents.

Considering the facts and circumstances of the case, the direction for personal appearance of Sri Herbert Wilson Trevor Syiem, the Secretary, NEC is dispensed with. The matter may come up again on 8.9.2003 for orders. On that day Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents shall intimate the actual steps so far taken by the respondents.

Pl. comply order  
dated 22/6/03

JS  
22/6/03

Order dtd. 24/6/03  
Communicated to the  
respondent No.1. by  
Sted. Bot.

28/6/03.

8.8.03

An affidavit  
has been submitted  
by the Respondent No. 2.

JS

Office Note	Date	Tribunal's Order
	8.9.2003	Present : The Hon'ble Mr. K.V. Prahaladan, Member (A).  List again on 22.10.2003 for orders.
	mb 22.10.2003	None appears for the applicant. Mr. A. Deb Roy, learned Sr.C.G.S.C. appearing on behalf of the respondents prays for time for filing of reply. Prayer allowed. List the case on 21.11.2003 for reply.
	bb 21.11.2003	Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman The Hon'ble Shri S.K.Naik Administrative Member.  Mr.J.L.Skarkar, learned counsel for the petitioner and also Mr.A.D.Roy, learned Sr.C.G.S.C. for the alleged contemnors. List on 10.12.2003, on that day, orders, if any, passed by the High Court may be produced.
	bb 20.1.2004	Present: HOn'ble Shri Bharat Bhusan, Member (J) Hon'ble Shri K.V. Prahladan, Member (A)/  Mr J.L. Sarkar, learend counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. are present.  This is a contempt petition filed against the non-compliance of the orders of the Hon'ble Tribunal in

*K.V. Prahaladan*  
Member

*[Signature]*  
Vice-Chairman

*S.K. Naik*  
Member

*[Signature]*  
Vice-Chairman

Abhidavit filed on behalf of the R. No-2,

*20/11/03*

Abhidavit filed on behalf of the R. No-2.

*19.1.03*

Office Note

Date

Tribunal's Order

20.1.2004

Order dt. 20/1/04  
Sent to D/Section  
for issuing to  
Applicant, respondent  
No. 2 and Sr. C. A. S. C.

Corr  
27/1/04.

24.2.04

An affidavit  
submitted by the  
Respondent No. 2.

*[Signature]*

O.A.No.38 of 2000 dated 31.7.2001. It is stated that in the intervening period the respondents have approached the Hon'ble High Court but so far the copy of the orders passed, if any, by the Hon'ble High Court has not been filed by the respondents. However, it is submitted by the learned counsel for the applicant that no stay order has been passed against the order of the Tribunal. Even in the affidavit of the Respondent No.2 filed by the respondents as far back as on 5.8.2003, it was mentioned in para 14 that steps were being taken to implement the judgment of the Tribunal and for that they had prayed for grant of three months time. The said period has also expired long back but they have not taken any steps to implement the judgment. In the circumstances directions are given to respondent 2 to appear before the Tribunal on 25.2.2004.

List the matter on 25.2.04 for further orders.

*[Signature]*  
Member (A)

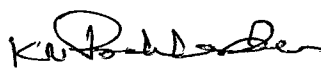
*[Signature]*  
Member (J)

nkm

12.5.2004 Present : The Hon'ble Sri Mukesh Kumar Gupta, Member (J).

The Hon'ble Sri K.V. Prahladan, Member (A).

Learned counsel for the applicant to take steps to implead UPSC as contemner as well as find out name of the incumbent who is holding the post of Secretary<sup>Min. Home</sup> List before the next Division Bench.

  
Member (A)

  
Member (J)

mb

14.6.2004 Present: Hon'ble Mrs. Bharati Roy  
Judicial Member.

Hon'ble Mr. K.V. Prahladan  
Administrative Member.

Mr. J.L. Sarkar, learned counsel for the petitioner shall take appropriate step so that notice reach the UPSC by 15 days from today.

Post the matter before the next Division Bench.

  
Member (A)

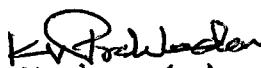
  
Member (J)

bb

22.7.2004 Present: The Hon'ble Shri K.V. Sashidanan-  
dan, Member (J).

The Hon'ble Shri K.V. Prahladan  
Member (A).

When the matter came up for hearing, learned counsel for the applicant submitted that he had already taken steps of notice to UPSC as ordered by this Tribunal, but nothing is brought on record. Let the same be brought on record. Post before the next Division Bench.

  
Member (A)

  
Member (J)

bb

As per order dt. 22/7/04,  
Notice sent to  
D/Section for  
issuing to the  
Secretary, U.P.S.C.  
New Delhi, by regd. A/D.

Recd. 10/8/04.  
5/8/04.

D/Memo No- 1176

Dt. 5/8/04.

25.2.2004 Present: Hon'ble Shri Shanker Raju,  
Judicial Member

Hon'ble Shri K.V. Prahladan,  
Administrative Member.

Learned counsel for the applicant seeks a weeks time to implead the Chairman, UPSC as a party as the steps had already been taken by the respondents to send the particulars to the UPSC. However, UPSC is awaiting the CWP pending before the High Court where the matter was restored and due to the sudden demise of the applicant notice have been issued for substitution of the party. However, it is not disputed that no stay has been granted on our order by the High Court. List it on 4.3.04.

*K.V. Prahladan*  
Member(A)

*h*  
Member(J)

nkm

9.3.2004 List in the next available Division Bench.

*K.V. Prahladan*  
Member (A)

mb

31.3.2004 present: The Hon'ble Shri Kuldip Singh  
Member (J).

The Hon'ble Shri K.V. Prahladan  
Member (A).

Mr. J.L. Sarkar, learned counsel for the petitioner prays for impleading Union Public Service Commission as contemnor No.3 and seeks time to implead the same.

Prayer allowed. Two weeks time is allowed to the petitioner to implead Union Public Service Commission as contemnor No.3. List the matter on 3.5.2004.

*K.V. Prahladan*  
Member (A)

*K.V.*  
Member (J)

bb

*5.5.04*

Order dt. 25/2/04  
sent to D/Section  
for issuing to both  
the parties.

*Cas*  
*5/3/04*

*Pl. comply order  
dated 31/3/2004.*

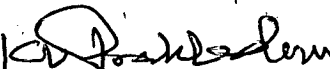
*NS*  
*1/4/04*


*Affidavit filed  
on behalf of  
The R. No 2.*

24.8.2004 present: The Hon'ble Shri D.C.Verma,  
Vice-Chairman (J).

The Hon'ble Shri K. V.  
Prahlanan, Member (A).

As prayed by Mr.A.Deb Roy, learned  
Sr.C.G.S.C. four weeks time is granted  
to the respondents for getting inst-  
ruction.

  
Member (A)

  
Vice-Chairman

bb


28.9.04.


Present: Hon'ble Mr. Justice R.K.  
Batta, Vice-Chairman.

Hon'ble Mr.K.V.Prahlanan, Admini-  
strative Member.

Heard Mr.J.L.Sarkar, learned  
counsel for the petitioner and  
Mr.A.Deb Roy, Sr.C.G.S.C. for the  
Respondents.

Mr.A.Deb Roy, Sr.C.G.S.C.  
has <sup>placed</sup> ~~stated~~ before us that Minutes  
of the Meeting of the Departmental  
Promotion Committee held on 9th  
August, 2004, wherein it is <sup>stated</sup> ~~regre-~~  
~~ted~~ that the petitioner was found  
fit and the Departmental Promotion  
Committee recommended the promotion  
of the applicant to the grade of  
Deputy Director (Admn). In view of  
this we made specific enquiry <sup>with</sup> ~~to~~  
Mr.A.Deb Roy, Sr.C.G.S.C. as to  
when the promotion order will be  
actually issued. Mr.A.Deb Roy,  
Sr.C.G.S.C. has stated that the  
Government of India is awaiting  
for High Court's order. We would  
like to point out that no stay order  
in the matter has been granted by  
the Hon'ble High Court. Even though  
the promotion may be subject to the  
outcome of the Writ Petition before  
Hon'ble High Court, The Respondents  
are <sup>required</sup> ~~directed~~ to issue the promotion  
order of the petitioner in terms of

 contd/-

23-9-04  
1) Accident 21k- by the report 2  
2) Letter issued to  
the U.P.S.C. vide - Order  
dt 22-7-04-64  
3) No reply has been  
- filed by U.P.S.C.  
till now.  


(10)

28.9.04.

the order of the Tribunal dated 31.7.2001, <sup>and</sup> subsequent order thereon <sup>namely</sup> including the order dated 20th January, 2004. It appears that the Respondents do not <sup>intend</sup> wish to comply with the order of this Tribunal. As such we direct the Respondent No.2 to appear before us and show cause as to why action for contempt should not be taken against him. In the circumstances, it is considered necessary that the Respondents No.2 shall personally appear before us on the next date of hearing. Stand over to 3rd November, 2004.

As per order dt. 28/9/04, order sent to D/Section for issuing <sup>the</sup> respondent No-2, by regd. with A/D post.

29/9/04

2-11-04

✓ Affidavit filed by the respondent 2 / No reply has been filed by the respondent till now. lm

3.11.04.

2.11.04

order dt. 28.9.04 duly served on Respondent No. 2. A/D card at Flag 'A'.

*K. B. Bhatta*  
Member

*R. K. Bhatta*  
Vice-Chairman

Present: Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.  
Hon'ble Mr. K.V. Prahladan, Administrative Member.

Mr. J.L. Sarkar, learned counsel for the applicant is present. Mr. A. Deb Roy, Sr. C.G.S.C. states that in Writ Petition filed by the Respondents against the Judgment of this Tribunal the stay has been granted by the Hon'ble High Court on 14.10.04. In view of the same at this stage we do not pass any further orders in the matter.

*K. B. Bhatta*  
Member


*R. K. Bhatta*  
Vice-Chairman

lm

13.09.2010 This Contempt Petition had been adjourned sine die vide order dated 03.11.2004. On perusal of paper book, we noticed that High Court order dated 14.10.2004 passed in Writ Petition No.5232/2002 has not been placed on record.

In absence of appearance made by both sides, notice be issued to both parties informing them for placing necessary order of Hon'ble High Court, vide which stay had been granted. This being a very old matter, it is made clear that no further adjournment will be allowed.


List on 01.10.2010.

  
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/bb/

01.10.2010 Mr S.N. Tamuli, proxy counsel appears on behalf of Dr J.L. Sarkar, learned counsel for applicant and prays for adjournment.

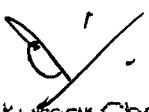
List on 02.11.2010. On that day applicant should produce a copy of the order passed by the Hon'ble High Court as detailed vide earlier order.

  
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

nkm

02.11.2010 Ms P. Zannat, proxy counsel for Dr J.L. Sarkar, appeared and prayed for adjournment on the ground of illness of Dr. Sarkar.

List on 16.12.2010.

  
Madan Kumar Chaturvedi)  
Member (A)

nkm

CP 42/2002 (OA 38/2000)

16.12.2010

Place it before the Division Bench at the earliest available date. Adjourned sine die.

(Madan Kumar Chaturvedi)  
Member (A)

/bb/

3-11-11

04.11.2011

In this case notice was issued on 20.9.2002.

*In view of the order  
of 3.11.04, 13.9.10 & 1.10.10  
the case is pending due  
to oversight.*

Thereafter, several dates were given. It was submitted before the Tribunal that respondents have approached the Hon'ble High Court but the copy of the High Court order has not been filed by the respondents. It was further stated by the respondents that steps were taken to implement the judgment of the Tribunal. Thereafter, none appeared. In absence of appearance made by both the parties on 13.9.2010, Tribunal directed to issue notice to both parties informing them for placing necessary order of Hon'ble High Court by which stay had been granted. It was made clear that no further adjournment will be allowed. Thereafter case was fixed on 01.10.2010, 02.11.2010 and 16.12.2010. Adjournment was prayed on one pretext or other. Nothing was done in the matter.

It appears that petitioner is not interested in prosecuting the matter. As such without going into the merits, we close the Contempt Petition. Notices are discharged.

(Mrs M. Das)  
Member (J)

(Madan Kumar Chaturvedi)  
Member (A)

pg

15.11.11

Order dtd. 4.11.11

issued to the parties vide No.

1947-49 dtd. 16.11.11

(Recd)

17/11/11

সংসদীয় প্রশাসন  
কেন্দ্রীয় প্রশাসনিক আদালত

11/15 SEP 2002

গুৱাহাটী বেন্চ  
কেন্দ্রীয় প্রশাসনিক আদালত

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

C.P. No. 42 /2002

Sri N.K. Arjun Kanungo

- Vs. -

Sri H. W. Trevor & ors.

I N D E X

Sl. No.	Annexure	Particulars	Page No.
1		Petition	1 to 4
2		Affidavit	5
3		Draft Charge	6
4	A	Judgment dated 31.7.2001	7 - 11
5	B	Letter dated 19.9.2001	12
6	C	Letter Dated 08.07.2002	13

Filed by

( A. Chakraborty )

Advocate

Chakraborty  
11/9/2002

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

Contempt Petition No. 42/2002

In

O.A. NO. 38/2000

In The Matter Of:

Sri N.K. Arjun Kanunina

\_\_\_\_\_Applicant

- Vs. -

Union Of India & Ors.

\_\_\_\_\_Respondents

--- AND ---

In the matter of:

An application under section  
17 of the Administrative  
Tribunals Act, 1985 praying  
for initiation of a contempt  
proceeding against the alleged  
contemners for non-compliance  
of the common Judgment and  
Order dated 31.07.2001 passed  
in O.A. No. 38/2000.

--- AND ---

In the matter of:

Sri N.K. Arjun Kanunina,

Shillong Bar Library,

Shillong, Meghalaya.

\_\_\_\_\_Petitioner

14  
Filed by Mr. Petitioner  
through Mr. Chakraborty -  
Deputy Clerk  
11/9/2002

--- Versus ---

1. Shri Herbert Wilson Trevor  
Syicm, The Secretary,  
North Eastern Council,  
Taxation Building,  
Shillong.

2. Shri P.L. Thanga,  
Planning Adviser,  
North Eastern Council,  
Shillong.

\* The Secretary,  
M.P.S.C, Dholpur  
House, New Delhi.

\*3.

1 :

\_\_\_\_ Respondents

The humble petition of the  
above named petitioner ;

MOST RESPECTFULLY SHEWETH:

1. That your petitioner being highly aggrieved by the impugned orders dated 23.11.1992, 1.12.1992, 2.12.1992 and 22.3.1999 moved this Hon'ble Tribunal through O.A. No.38/2000. The Hon'ble Tribunal, after hearing the parties, was pleased to set aside and quashed all the above impugned orders and was further pleased to give direction to the respondents to consider the case of the petitioner for promotion to the post of Deputy Director (A) as on 1990 as per law and grant him service benefit within three weeks from the date of receipt of the order and pass consequential order.

A copy of the Judgment and Order dated 31.07.2001 is enclosed as Annexure A.

2. That your petitioner most humbly begs to state that he obtained certified copy of the Judgment and Order dated 31.7.2001 in OA.No.38/2000 on 18.9.2001. Thereafter, he submitted a copy of the same to the respondent No.1 for considering his case by letter dated 19.09.2001.

A copy of the Letter dated 19.09.2001 is enclosed as Annexure - B.

3. That the petitioner begs to state that the respondents have received the copy of the said Judgement and Order dated 31.7.2001 but nothing has been done in this regard. Due to inaction of the respondents your petitioner by another letter dated 08.07.2002 to the respondent No.1 prayed to communicate him the outcome of the matter. But the respondents has not given any response to the petitioner up till date.

A copy of the letter dated 08.07.2002 is enclosed as Annexure - C.

4. That your petitioner humbly submits that a period of about one year has passed away from the date of submission of Judgement of this Hon'ble Tribunal dated 31.7.2001 alongwith petitioner's letter dated 19.9.2001 but the respondents did not take any initiative to implement the judgment of Hon'ble Tribunal.

5. That your petitioner begs to state that the respondents deliberately and willfully did not take any initiative to implement the Judgment and Order of this of Hon'ble tribunal

6. That in the facts and circumstances stated above, it is a fit case for the Hon'ble Tribunal for initiating a contempt proceeding against the respondents for deliberate and willful disregard to the Judgment and Order of the Hon'ble Tribunal dated 31.7.2001 passed in OA.No.38/2000.

7. That this petition is made bonafide and for the cause of justice.

Under the facts and circumstances stated above, the Hon'ble tribunal be pleased to issue notice to the respondents and after hearing the parties be pleased to initiate contempt proceeding against the respondents for willful negligence of the Judgment and Order dated 31.7.2001 passed in O.A. No. 38/2000 and further be pleased to impose punishment in accordance with law.

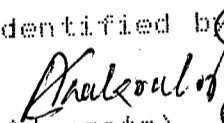
And for this act of kindness your petitioner as in duty bound shall ever pray.


A F F I D A V I T

I, N.K. Arjun Kanunina, son of Late Narmada Kr. Arjun Kanunina, C/O. Shillong Bar Library, Shillong do hereby solemnly declares as follows :

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case.
2. That the statements made in para 1 to 7 are true to my knowledge and belief and that I have not suppressed any material fact.
3. That this affidavit is made for the purpose of filing the contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

And I, sign this affidavit on this 11th day of September, 2002 at Guwahati.

Identified by  
  
(Advocate)

  
Deponent

Solemnly affirms and declares before me who is identified by A. Chakraborty, Advocate on this 11th Day of September, 2002

  
Advocate 11/9/02

DEAFI CHARGE

Laid down before the Hon'ble Tribunal for initiating a contempt proceeding against the respondents for willful disregard to the common judgment and order of the Hon'ble tribunal dated 31.07.2001 passed in OA. No. 33/2000. The respondents have willfully and deliberately violated the order of the Hon'ble Tribunal dated 31.07.2001 and therefore are liable for contempt of court proceedings and punishment in accordance with law.

— 7 —

Annexure - A

P

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.38 of 2000

Date of decision: This the 31st day of July 2001

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri N.K. Arjun Kanunja,  
Son of Late Narmada K'r Arjun Kanunja,  
East Khasi Hills.

.....Applicant

By Advocates Mr J.L. Sarkar, Mr M. Chanda and  
Mrs S. Deka.

- versus -

1. The Union of India, through the  
Secretary to the Government of India,  
Ministry of Home Affairs,  
North Eastern Council Division,  
New Delhi.

2. The Secretary,  
The North Eastern Council,  
East Khasi Hills,  
Meghalaya, Shillong.

3. The Union Public Service Commission,  
Through its Secretary,  
New Delhi.


.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)



By an order dated 26.4.1983 the applicant, who was Private Secretary to the Chairman of North Eastern Council (NEC for short), was appointed to officiate as Private Secretary to the Chairman in the scale of pay of Rs.1100-1600 subsequently revised to Rs.3000-4500 plus other allowances with effect from 23.4.1983. Consequent upon the approval of the UPSC of the aforesaid appointment of the applicant to the upgraded post of Private Secretary to the Chariman, NEC in the sclae of Rs.3000-100-3500-125-4500, the officiating appointment of the applicant to the post of Private Secretary to the Chairman, NEC

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stood regularised with effect from 23.4.1983. By an order dated 24.9.1990 he was temporarily appointed as Deputy Director (A) on ad hoc basis in the NEC for a period of six months with effect from the date of assumption of charge. By order dated 11.4.1991 the term of ad hoc appointment to the post of Deputy Director (A) was extended for a further period of six months with effect from 8.4.1991 or till the date of receipt of the UPSC's final decision in regard to the eligibility of the applicant for regular appointment to the post. The NEC, subsequently, by its order dated 23.11.1992 cancelled the order dated 28.1.1991 regularising the services of the applicant in the upgraded post of Private Secretary to the Chairman, NEC with effect from 23.4.1983. By the said order it was also held that the applicant was not eligible for consideration of regularisation in the post of Deputy Director (A) and accordingly by the aforesaid order dated 23.11.1992 the applicant was reverted to the post of Private Secretary to the Chairman, NEC. The above order was assailed before this Bench by way of O.A.No.127 of 1993 as unlawful. By Judgment and Order dated 5.2.1998 the Tribunal disposed of the application with direction to the respondents to dispose of the representation of the applicant by passing a reasoned order within the specified period. As per direction of the Tribunal the matter was taken up for consideration by the concerned authority wherein the applicant was also given a personal hearing. By the impugned order the respondents turned down his representation and refused his promotion to the upgraded post of Private Secretary to the Chairman with effect from 23.4.1983 to 12.8.1990 as regular promotion and count the same for the purpose of seniority for promotion to the post of Deputy Director. Hence this application.

2. For proper adjudication of the controversy raised in this application certain basic facts are required to be gone into, more particularly about the appointment of the applicant. As alluded by order dated 26.4.1983 the applicant was appointed to officiate as Private Secretary to the Chairman, NEC. The said order was also forwarded to the Deputy Secretary to the Government of India, Ministry of Home

Affairs.....

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9

Affairs, New Delhi for taking certain formal steps. In the said communication it was informed that the appointment of the applicant was made against the post of Private Secretary to the Chairman, NEC created by NEC order No.NEC.23/75 dated 26.4.1983. The applicant was thus appointed to the post created in 1983. The NEC by order dated 28.1.1991 regularised the services of the applicant from 26.4.1983, consequent upon the approval of the UPSC to the appointment of the applicant to the upgraded post of Private Secretary. A copy of the order dated 28.1.1991 was sent to the Deputy Secretary (NEC), Government of India, Ministry of Home Affairs, New Delhi referring to the Ministry's letter No.7/21/84-NE.II dated 14.1.1991. The Ministry's letter dated 14.1.1991 was not made available before us. However, the fact remains that the applicant was appointed to a post created in 1983. Admittedly, there were no rules in the NEC for recruitment to the post of Private Secretary to the Chairman of the NEC. The Recruitment Rules were approved and notified vide Memo No.5/19/83-NE.II dated 11.3.1985. The said Recruitment Rules insisted eight years regular service in the lower grade and recruitment could be made either by promotion or by transfer on deputation. As per the eligibility criteria a departmental Private Secretary in the scale of pay of Rs.650-1200 was eligible to be considered on completion of eight years regular service in the grade.

3. Mr A. Deb Roy, learned Sr. C.G.S.C. contended that the applicant did not fulfil the requirement for recruitment as per the Recruitment Rules. As mentioned, the post in which the applicant was appointed as Private Secretary to the Chairman, NEC was a post created prior to the emergence of the Recruitment Rules. The Recruitment Rules of 1985 will not apply since the rules are relatable to the existence of the vacancy. The respondents, in the circumstances, fell into gross error in holding that the applicant was not eligible for appointment to the post earlier than the existence of the Recruitment Rules. The cancellation of the regularisation of the applicant for the aforesaid reason from 1983, therefore, cannot be sustained. The order dated 23.11.1992 and the consequent order dated 1.12.1992 in the circumstances

therefore.....

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therefore, cannot be sustained and accordingly the same is set aside. Consequently, the order dated 2.12.1998 reverting the applicant to the post of Private Secretary to the Chairman, NEC on the strength of the order dated 23.11.1992 cannot be sustained.

4. Mr J.L. Sarkar, learned counsel for the applicant, stated and contended that since the applicant was unlawfully reverted from the post of Deputy Director (A), the applicant should get the service benefit of the post, which he would have held till his retirement. Mr Deb Roy submitted that the applicant was considered subsequently in the year 1996 by the DPC for promotion, but the DPC did not find him suitable for promotion to the said post as he failed to attain the prescribed Bench Mark Grading of 'very good'. As per the amended Recruitment Rules of 1990 the applicant was entitled for consideration of promotion to the post of Deputy Director on and from 8.10.1990 and not 1996 as was held by the impugned order dated 22.3.1999. The legitimacy of the action of the respondents in the matter of reverting the applicant from the post of Deputy Director by the order dated 2.12.1992 was also under consideration in O.A.No.127/1993. The action of the respondents in holding DPC during the pendency of the aforesaid O.A. was contrary to the provisions of Sub-section 4 of Section 19 of the Administrative Tribunals Act, 1985.

5. For the reasons stated above the impugned orders dated 23.11.1992, 1.12.1992, 2.12.1992 and 22.3.1999 are set aside and quashed. The applicant has already attained his superannuation on 30.4.1996. However, the applicant cannot be deprived of the benefit that he was entitled to during his period service. The respondents are accordingly directed to consider the case of the applicant for promotion to the post of Deputy Director (A) as on 1990 as per law and grant him whatever service benefit he was eligible for under the law. The respondents are directed to complete the above exercise as early as.....

: 5 :

as possible, preferably within three weeks from the date of receipt of the order and pass consequential order.

6. The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/VICE CHAIRMAN  
Sd/MEMBER (Adm)



Certified to be true Copy  
प्रमाणित प्रतिलिपि

NS 18/9/2017

For  
Sd/VICE CHAIRMAN  
Sd/MEMBER (Adm)  
Sd/SECRETARY  
Sd/CLERK  
Sd/STENOGRAPHER  
Sd/DEPUTY CLERK  
Sd/DEPUTY STENOGRAPHER  
Sd/DEPUTY SECRETARY  
Sd/DEPUTY MEMBER (Adm)

To

The Secretary,  
North Eastern Council,  
Shillong.

Annexure - B  
B

— 12 —

Ref:- O.A. No. 38 of 2000 - N.K. Arjun Kanunjna P.S. to  
Chairman, NEC (Retd) - Vs - Union of India and  
others - Order of the Hon'ble CAT, Guwahati, dated  
31st July, 2001.

Sir,

I have the honour to submit herewith a xerox copy  
of the Order dated 31st July, 2001, passed by the Hon'ble  
Central Administrative Tribunal, Guwahati, in the above  
mentioned matter.

I shall be grateful for necessary action.

Thanking you.

Yours faithfully,

Dated Shillong,  
19th Sept., 2001.

( N.K. Arjun Kanunjna )  
Retd. P.S. to Chairman, NEC  
C/O Shillong Bar Library,  
Shillong.

Submitted  
19/9/2001.

— 13 —

Annexure - C  
24

To

The Secretary  
North Eastern Council  
**Shillong**

Ref : O.A. No. 38 of 2000 - N K Arjun Kanunjna, P.S. to  
Chairman, NEC (Retd) - Vs - Union of India and  
Others - Orders of the Hon'ble CAT, Guwahati,  
Dated 31<sup>st</sup> July, 2001 - My letter dtd. 19<sup>th</sup> September  
2001.

Sir,


I have the honour to invite your kind attention to my letter dated  
19<sup>th</sup> September, 2001, on the above subject.

I shall be grateful if I could be informed of the outcome of your  
kind consideration.

Thanking you,

Yours faithfully,

Dated Shillong  
The 8<sup>th</sup> July 2002.



( N K Arjun Kanunjna )  
Retd. P.S. to Chairman, NEC  
C/o. Shillong Bar Library  
Shillong.

- 14 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI.

CONTEMPT PETITION No.42/2002

In  
OA.No.38/2000

AND

IN THE MATTER OF :

LATE SHRI N.K. ARJUN KANUNJNA . - - - *petitioner*

Vs.

- 1) SHRI HERBERT WILSON TREVOR SYIEM,  
SECRETARY, NORTH EASTERN COUNCIL
- 2) SHRI P.L. THANGA,  
PLANNING ADVISOR, NORTH EASTERN COUNCIL

- - - *respondents*

AND

IN THE MATTER OF :

AN AFFIDAVIT BY THE RESPONDENT NO (2)

MOST RESPECTFULLY SHEWETH :

1. That the respondent No.2 above named is the Secretary In-charge, North Eastern Council.
2. That your humble respondent No.2 beg. to submit that Mr.H.W.T. Syiem Respondent No.(1) has proceeded on voluntary retirement on 30<sup>th</sup> July, 2002.
3. That the Respondent No.(2) (Shri P.L.Thanga), Planning Adviser has been asked to look after the current charge of Secretary, NEC vide order No.(Fax) 4/1/99-NE.II dt. 5.8.2002 purely as a temporary measure in addition to his own duties.
4. That Respondent No.(2) took over the current charge of Secretary, NEC in addition to his duties as Planning Adviser w.e.f. 5.8.2002.
5. That the post of Secretary, NEC has not been filled up by the Govt. of India till date.
6. That the respondent No.2 received C.P.No.42/2002 on 28.11.2002 by mail and Mr.A. Deb Roy, Sr.Central Govt. Standing Counsel was authorized to represent him by signing Vakalatnama and was requested to appear before the Tribunal on 10.12.2002 on behalf of the Secretary, NEC and the Central Government.
7. That Shri A. Deb Roy, SCGSC has been requested to appear on behalf of the Secretary, NEC on 25.7.2003.

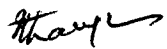
Contd...P.2/-

8. That the North Eastern Council has preferred an appeal before the Hon'ble High Court, Guwahati vide W.P.C. No.5232/02 against the Judgement & order in O.A.No.38/2000 dt. 31<sup>st</sup> July, 2001 of the Hon'ble CAT.
9. That the matter is being pursued in the Hon'ble High Court for revival and further order in view of the fact that the petitioner has already expired in the month of Feb., 2003.
10. That the respondent has no intention to ignore or to disobey the order of the Hon'ble CAT dt. 31<sup>st</sup> July, 2001 and the show cause notice dt. 28<sup>th</sup> Nov., 2002.
11. That under the above circumstances, your humble respondent beg to pray that the contempt proceeding contemplated against him in the above matter may be dropped as the respondent has no intention to ignore the order dt. 31<sup>st</sup> July, 2001 passed by the Hon'ble CAT.
12. That your humble respondent further beg to state that delay in taking appropriate decision in this case was not intentional and occurred only because of lack of communication and information.
13. That the respondent Most humbly and respectfully, further beg to state that he could not give personal attention to the case primarily because of the communication gap.
14. That your humble respondent further beg to <sup>state</sup> ~~assure your honour~~ that besides pursuing the case at the Hon'ble Guwahati High Court, simultaneous steps are being taken to implement the judgement. For this, he most humbly pray to grant him three months time for approaching appropriate authority for final decision in this case.
15. That this affidavit is filed bonafide for the end of justice.

In the premises, it is prayed that your Lordship may be pleased to take the notice of this affidavit in respect of retirement of Shri H.W.T. Syiem, Respondent No.(1) and further be pleased to allow the respondent 3(three) months time to take necessary steps to comply with the related order of the Hon'ble CAT. And for which act of kindness the humble respondent shall ever pray.

Dated, Shillong :  
the 5 August, 2003.

**Humble Respondent.**

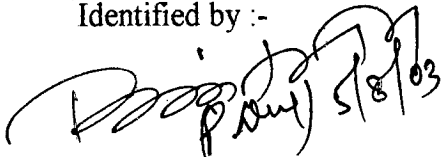
  
E/c Secretary,  
North Eastern Council

**AFFIDAVIT**

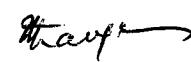
I, Shri P. L. THANGA aged about 56 years, son of Shri (L) HAKUNA Resident of NEC Complex, Motinagar, P.O. SHILLONG, Shillong-14, District East Khasi Hills, State of Meghalaya, Government Servant by Profession, A Christian by Religion, do hereby solemnly affirm and state as under :-

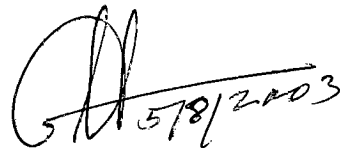
- 1) That, I am the Respondent in the above noted case.
- 2) That the statements made in Paragraph No.1 to 14 are true to the best of my knowledge, belief and rest are my humble submission before this Hon'ble CAT and I sign this affidavit on this, the 5<sup>th</sup> day of August, 2003 at Shillong.

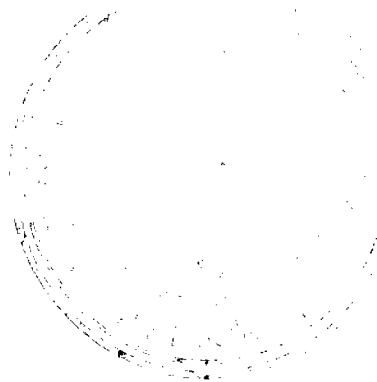
Identified by :-

  
Advocate

Deponent

  
I/c Secretary,  
North Eastern Council

  
5/8/2003



IN CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI

C.P. 42/2002

OA No. 38/2000

AND

IN THE MATTER OF

LATE SHRI N.K. ARJUN KANUNJNA.....Petitioner

Vrs

1) SHRI HERBERT WILSON TREVOUR SYIEM  
SECRETARY, NORTH EASTERN COUNCIL

2) SHRI P.L. THANGA

PLANNING ADVISER, NORTH EASTERN COUNCIL.....Respondents

AND

IN THE MATTER

AN AFFIDAVIT BY THE RESPONDENT NO (2)

MOST RESPECTFULLY SHEWETH :

1. That the Respondent No. 2 above named is the Secretary In-Charge, North Eastern Council.
2. That your humble Respondent No.2 beg to submit that Mr. H.W.T. Syiem Respondent No.(1) has proceeded on voluntary retirement on 30<sup>th</sup> July, 2002.
3. That the Respondent No.(2) Shri P.L. Thanga, Planning Adviser has been asked to look after the current charge of Secretary, NEC vide Order No.(Fax)4/1/99-NE.II dt. 5.8.2002 purely as a temporary measure in addition to his own duty.
4. That Respondent No. (2) took over the current charge of Secretary, NEC in addition to his duties as Planning Adviser w.e.f. 5.8.2002.
5. That the post of Secretary, NEC has not been filled up by the Govt. of India till date.
6. That the North Eastern Council has preferred an appeal before the Hon'ble High Court, Guwahati vide W.P.C No. 5232/02 against the Judgement & order in O.A No. 38/2000 dt 31<sup>st</sup> July, 2001 of the Hon'ble CAT.
7. That the Respondent has no intention to ignore or disobey the order of the Hon'ble CAT dated 31/7/0.

contd....2/-

8. That the Respondent simultaneously to comply with the order of the Hon'ble CAT approached the competent authority to sit for the DPC in the matter of Promotion to the post of the Deputy Director (A) .Copies of all the correspondence with the UPSC is enclosed *and marked as ANNEXURE A (Series)*
- 9.. That the Respondent has received the notice of the Hon'ble High Court to the proposed legal heirs on the application for substitution dated 2.12.03 with notice to take steps within three days (copy enclosed) *and marked as ANNEXURE - B* .
- 10.. That your humble Respondent beg<sup>s</sup> to ~~assure your honour~~ <sup>state</sup> that besides pursuing the case at the Hon'ble Guwahati High Court and the Departmental Promotion Committee most humbly pray to grant the revision of the Order towards the implementation of the CAT Order dated 31/7/2001 to such time the Hon'ble High Court give their final verdict or the final judgement
- 11... That this Affidavit is filed bonafied for the end of justice.

It is prayed that your Lordship may be pleased to take the notice of this Affidavit and to allow the Respondent to take necessary steps to comply with the related order of the Hon'ble CAT till such time he receives the High Court Final Judgement. For which act of kindness the humble Respondent shall ever pray.

Dated Shillong  
The \_\_\_\_\_ February, 2004

**Humble Respondent**

-19- 32

**AFFIDAVIT**

I, Rajeev Mathur 40 Onkar Mathur  
aged 37 years, a Hindu by faith, Govt. servant by  
profession, R/O Mohragar, Shillong  
Dist. East Khasi Hills Meghalaya, hereby solemnly  
affirm and declare as follows -

1. That I am serving as By Secretary in the office of NEC, Secretariat,  
Shillong under the Government of India and as such I am authorised to  
swear this affidavit on behalf of the Writ petitioners. I am also fully  
conversant with the facts and circumstances of this case and as such I am  
competent to swear this affidavit.
3. That the statements made in this affidavit as well as those made  
paragraphs 1 to 7 and 10 and 11  
of the petition are true to my knowledge and those made in paragraphs-----  
8 and 9 being matter of  
records are true to my information derived therefrom and the rest are my  
humble submission before this Hon'ble Court.

And in witness where of I put my hand unto this affidavit on this 13<sup>th</sup>  
day of February, 2022 at-----

Identified by

Advocates Clerk

  
(R. Mathur),  
DEPONENT

REGISTERED / SPEED POST  
(CONFIDENTIAL)GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
SHILLONG

NO.NEC/ADM/8/2000

Dated Shillong the 8<sup>th</sup> Aug., 2003

To

1. The Secretary,  
Union Public Service Commission,  
Dholpur House,  
Shahjahan Road,  
New Delhi - 110 011.

Sub: Implementation of the CAT order dated 31.7.2001 in OA No.38 of 2002/CP No.42/2002 - (L) Shri N.K.A.Kanunjana Vrs UOI and Others.

Sir,

I am directed to enclose herewith a copy of the judgement order dated 31.7.2001 passed by the Hon'ble CAT Guwahati Bench on the subject mentioned above for favour of perusal.

Although we have preferred an appeal in the Hon'ble High Court, Guwahati vide WPC No.5232/02 against the judgement and order of the Hon'ble CAT, we have not been able to succeed and the matter is still being pursued in the Hon'ble High Court. In the meantime (L) Shri N.K.A.Kanunjana filed a contempt petition against the Secretary and Planning Adviser, NEC vide CP No.42/2002 and accordingly the Hon'ble CAT have issued a Show Cause Notice to the Secretary, NEC and also called for personal appearance of the Secretary, NEC.

In compliance with para 5 of the judgement order dated 31.7.2001, the promotion case of (L) Shri N.K.A.Kanunjana, PS to Chairman to the post of Dy.Director(Adm) as on 1990 may be placed before the Departmental Promotion Committee for consideration. In this connection a copy of the Recruitment Rules 1985 and amended Recruitment Rules 1990 for the post of Dy.Director(Adm)/PS to Chairman are enclosed alongwith the following papers:

1. ACRs of (L) Shri N.K.A.Kanunjana for the period from 1983 to 1990
- (2) Copies of the following letters/orders affected by the Hon'ble CAT order dated 31.7.2001:
  - (a) NO.NEC/ADM/179/73-Vol.IV dated 11.4.1991.
  - (b) Order NO.NEC/ADM/179/73 Vol.IV dated 23.11.1992.
  - (c) Order NO.NEC/ADM/104/72 Vol.II dated 01.12.1992.
  - (d) Order NO.NEC/ADM/179/73 Vol.IV dated 02.12.1992
  - (e) MHAs letter No.7/21/84-NE.II dated 14.1.1991.
  - (f) Order NO.NEC/ADM/104/72 Vol.II dated 28.1.1991.
  - (g) No.NEC/ADM/179/73 VOL.V dt. 22.3.1999.

Contd...2/-

34

✓ BY SPEED POST/  
FAX

(210)

GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

NEC/ADM/8/2000.

Dated Shillong the 3<sup>rd</sup> November, 2003.

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House,  
Shahjahan Road,  
New Delhi-110069.

DPC- Deputy Director (A) in NEC- Implementation of the CAT order  
dated 31.7.2001 in OA No. 38 of 2002/CP No. 42/2002- (L) Shri N.K.  
Arjun Kanunjna Vs Union of India & Others.

In inviting a reference to your letter No.1/24(30)/2003-AP.I dt. 24.10.03 on  
subject cited above I am directed to enclose herewith a copy of an affidavit  
by the Secretary, NEC on 5/8/2003 which is self explanatory. Thereafter we  
not heard anything from the Hon'ble CAT.

As regards the appeal No.5332/2002 in the High Court the case has been  
ed on 16.9.2003 and likely to come up for hearing after 10<sup>th</sup> November, 2003.

As above.

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

8/c

RECEIVED

(h) UPSCs letter No.F.4/24(1)/90-AU.II dated 12.3.1991.

As per the amended Recruitment Rules 1990 Asstt. Secretary with 5 years regular service in the grade and PS to Chairman with 5 years regular service in the grade are eligible for consideration for promotion to the post of Dy. Director(Adm) in the scale of Rs.3700-5000/- (Revised to Rs.12,000-16,500/-). In this context, a copy of the minutes of the last DPC meeting held on 18.3.96 is enclosed for perusal.

As per the Hon'ble CAT order dated 31.7.2001, the date of regular appointment of (L) Shri N.K.A.Kamunjana in the post of PS to Chairman has to be counted from 1983 i.e. from the date of initial appointment to the upgraded post and the Respondents were directed to consider the applicant for promotion to the post of Dy. Director(Adm) as on 1990 as per Law and grant him whatever service benefit he has eligible for under the Law.

As per amended Rules 1990 the composition of Departmental Promotion Committee are as follows:

- |                         |          |
|-------------------------|----------|
| 1. Chairman/Member UPSC | Chairman |
| 2. Secretary, NEC       | Member   |
| 3. Joint Secretary, MHA | Member   |

Since the Administrative Ministry has been transferred from Ministry of Home Affairs to D/o Development of NER, the Joint Secretary(NEC) D/o DONER may be requested to join the Departmental Promotion Committee meeting.

The Chairman/Member UPSC as the Chairman of the Departmental Promotion Committee may be requested to fix the convenient date for DPC Meeting in Delhi office since both the Chairman and Member are from Delhi only.

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

Memo NO.NEC/ADM/8/2000

Copy to:

Dated Shillong the 8<sup>th</sup> Aug.2003

The Joint Secretary, Govt.of India, D/o Development of North Eastern Region, Vigyan Bhavan Annexe, Maulana Azad Road, New Delhi - 110 011. This has a reference to this Sectt.letter of even number dated 13.12.2001. Approval for implementation of the CAT judgement dated 31.7.2001 may kindly be accorded on 'Top Priority' basis.

( R. Mathur )  
Deputy Secretary

6  
22  
38  
BY SPEED POST 168

GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

No.NEC/ADM/8/2000.

Dated Shillong the 25<sup>th</sup> August, 2003.

To

The Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Sub: Implementation of the CAT order dated 31.7.2001 in OA No.38 of  
2002/CP No.42/2002-(Late) Shri N.K. A. Kanunjna Vrs. UOI and others.

Sir,

In inviting a reference to this Council Secretariat Speed Post letter of  
even number dt. 8.8.2003 on the subject cited above I am directed to request  
that the matter may kindly be expedited.

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

26.8.03  
MSUEL

(7) (23)

Confidential (170)

BY SPEED POST  
REGISTERED WITH A/D

GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

No.NEC/ADM/8/2000.

Dated Shillong the 17<sup>th</sup> September, 2003.

To

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Sub: DPC - Deputy Director (Admn.) in NEC - Implementation of the CAT order dated 31.7.2001 in OA No.38 of 2002/CP No.42/2002- (L) Shri N.K. A. Kanunjna Vs. Union of India & others.

Sir,

I am directed to refer to your letter No. 1/24(30)/2003-AP-I dt. 3.9.2003 on the subject cited above and to enclose herewith the following documents as desired by you for favour of early necessary action.

1. DPC Proforma.
2. Check list.
3. Self Contained Note.
4. Copy of Recruitment Rules.
5. Seniority list.
6. Eligibility list.
7. Integrity certificate.
8. Major/Minor Penalty certificate.
9. Vigilance clearance certificate.
10. Non-relation certificate from Secretary, NEC.
11. Minutes of the last DPC held on 18.3.96.
12. Original ACRs for the year 1982-83 to 1995-96.

Decision of the Hon'ble High Court in appeal is still awaited.

Encl: As stated above.

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

17/9/03  
JEWEL

(8) (24) (1)

38

Self contained note regarding promotion case of (L) Shri N.K.Arjun Kanunjna,  
Ex-PS to Chairman, NEC.

Vide Hon'ble CAT order dt. 16.2.96 in M.P.24/96(OA.No.127/93) the Hon'ble CAT directed the respondent to consider the promotion case of the applicant most expeditiously and in any event within a period of one month from the date of receipt of the copy of order. In compliance with the direction of the Hon'ble CAT, a proposal was accordingly sent to the UPSC for convening DPC on 29.2.96, accordingly a DPC was held on 18.3.96 at 11.00 A.M. A copy of the proceeding of the DPC is enclosed at Annexure 'A'.


As the DPC did not recommend (L) Shri N.K.Arjun Kanunjna for promotion, he again went to the Central Administrative Tribunal in O.A.No.38/2000. The Hon'ble CAT vide their order dt. 31.7.01 directed the respondent to consider the promotion case of (L) Shri N.K.Arjun Kanunjna as on 1990 by squashing the impugned order dt. 23.11.92, 1.12.92, 2.12.92 and 22.3.99.

As the order passed by the Hon'ble CAT is not in accordance with the recruitment rules in matter of qualifying service, the North Eastern Council has filed an appeal in the High Court against the order of the CAT. However, the North Eastern Council has not been able to obtain any order from the Hon'ble High Court till date. In the mean-time, the Hon'ble CAT is contemplating proceeding against the Secretary, NEC for which the Secretary, NEC was called for personal appearance on 25.7.03.

In the circumstances, the UPSC has been requested to convene a DPC to consider the promotion case of (L) Shri N.K.Arjun Kanunjna to the post of Deputy Director(A).

(L) Shri N.K.Arjun Kanunjna, Ex-PS to Chairman, NEC was promoted on adhoc basis to the post of Deputy Director(A) w.e.f. 24.9.90 in the scale of Rs.3700-5000/-. The UPSC vide their letter No.F.1/24(5)/91-AU.2 dt. 11.3.91, No.F.4/24(1)/90-AU.2 dt. 12.3.91 had ruled that (L) Shri N.K.Arjun Kanunjna was not eligible for promotion to the post of Deputy Director(A), therefore (L) Shri N.K.Arjun Kanunjna was reverted to the post of PS to Chairman, NEC on 23.11.92. Accordingly the post of Deputy Director felt vacant w.e.f. 23.11.92. This post could not be filled up by alternative method i.e. by deputation due to CAT order dt. 2.7.93.

Vide Hon'ble CAT order dt. 31.7.01, a seniority and qualifying service for purpose of promotion are to be counted from 1983, the date of initial appointment to the post of PS to Chairman (upgraded scale). As per the recruitment rules for the post of Deputy Director(A) Assistant Secretary and PS to Chairman with 5 years regular service in the grade are to be considered eligible and hence the proposal for convening DPC.

  
( R. Mathur )  
Deputy Secretary.

CONFIDENTIAL:

MOST IMMEDIATE / COURT DIRECTION:FILE NO.F.1/24(30)/2003-AP.I.

UNION PUBLIC SERVICE COMMISSION  
DHOLPUR HOUSE, SILAIAHIAN ROAD  
NEW DELHI-110011.

DATED: 3RD SEPTEMBER, 2003.

The Secretary to the Government of India,  
North Eastern Council Secretariat,  
Shillong.

(Kind attn.: Shri R. Mathur, Deputy Secretary)

Subject:- DPC – Deputy Director (A) in NEC - Implementation of the CAT  
order dated 31.7.2001 in OA No.38 of 2002/CP No.42/2002-(L) –  
Shri N. K. A. Kanunjana Vs. Union of India & Others.

Sir,

I am directed to refer to your letter No.NEC/ADM/8/2000, dated 8<sup>th</sup> August, 2003 (received in this office on 26<sup>th</sup> August, 2003), on the above mentioned subject and to say that, as per the directions of the Hon'ble Central Administrative Tribunal, Guwahati Bench, in their order dated 31<sup>st</sup> July, 2001, in O.A. No.38 of 2000, filed by Shri N. K. Arjun Kanunjana, the case of the applicant for promotion to the post of Deputy Director (A) as on 1990 is to be considered as per law. In view of this, the department may please immediately furnish all necessary information/documents in the prescribed DPC proforma, including the then vacancy position (including date & manner of occurrence), the vacancy year, the then existing Seniority List, an Eligibility List of eligible officers, , a Self-contained Note for DPC, Integrity Certificate/vigilance clearance, a Statement of penalties imposed, if any, on the eligible officers, original ACRs of all eligible officers and a copy of the Recruitment Rules then applicable, may be furnished. It may be clarified whether any DPC has already been held for the said vacancy year. If so, UPSC reference number in this regard may please be furnished.

Pending receipt of the aforesaid documents/clarification, no further action can be taken on the proposal at this end.. Keeping in view the directions of the Hon'ble Court the aforesaid clarification/documents may please be furnished immediately. The present position of the appeal filed before the Honb'le High Court may also be indicated.

Yours faithfully

(A. V. Tarvadi)  
Under Secretary  
Ph.23385674.

NEC Secretariat  
Shillong

3627

By No.

Date 8/9/03

(10) 12y opm (205) (26)

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GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

Dated Shillong the 17<sup>th</sup> October, 2003.

No.NEC/ADM/8/2000.

To

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

Sub: Implementation of the CAT order dated 31.7.2001 in OA No.38 of 2002/CP  
No. 42/2002 (Late) Shri N.K. Arjun Kanunjna Vrs UOI and others.

Sir,

In inviting a reference to your letter No. F.1/24(30)/2003-AP.I dt. 3.9.2003 on the subject cited above and to state the position of the above case are as follows:-

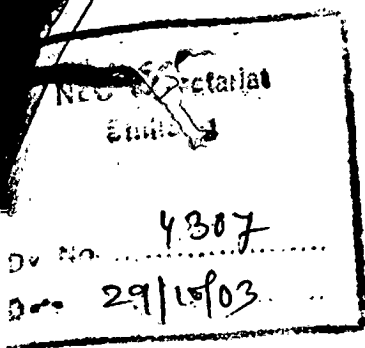
1. That on 12.8.2003 an appeal made by this office before the Hon'ble High Court, Guwahati for restoration of WP© No.5332/2002. The Hon'ble High Court has considered the appeal on 16.9.2003. A copy of the order dt. 16.9.2003 is enclosed for favour of your information.

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

OC

Bh 17/10/03  
ISSUED



(11) (27)

NEC Sectt. Shillong.  
Administration Section.

By No. 1745 Dt. 31/10/03

MOST IMMEDIATE /  
COURT DIRECTION:

FILE NO. F.1/24(30)/2003-AP.I.  
UNION PUBLIC SERVICE COMMISSION  
DIIOLPUR HOUSE, SILAIAJIAN ROAD  
NEW DELHI-110069.

DATED: 24TH OCTOBER, 2003.

The Secretary to the Government of India,  
North Eastern Council Secretariat,  
Shillong.

(Kind attn.: Shri R. Mathur, Deputy Secretary)

Subject:- DPC - Deputy Director (A) in NEC - Implementation of the CAT  
order dated 31.7.2001 in OA No.38 of 2002/CP No.42/2002-(L) -  
Shri N. K. A. Kanunjana Vs. Union of India & Others.

Sir,

I am directed to refer to your letter No. NEC/ADM/8/2000, dated 17<sup>th</sup> September, 2003, on the above mentioned subject and to say that it may be clarified as to what development had taken place in the hearing before the Hon'ble Central Administrative Tribunal in July, 2003, when the Secretary, NEC, was called for personal appearance before the Hon'ble Tribunal. The developments in the case before the High Court may also be indicated and whether the contempt case before the Hon'ble Tribunal is also being pursued or whether it has been stayed till the Hon'ble High Court decides on the appeal of the Department before them. It may also be clarified whether the Hon'ble Tribunal have been apprised of the appeal pending before the Hon'ble High Court. The Department are advised to pursue the case before the Hon'ble High Court so as to obtain their directions on the issue and simultaneously keep the Hon'ble Central Administrative Tribunal informed of the same.

2. This office may also be kept apprised of the development in the case, pending which, no further action can be taken on the proposal at this end.

Yours faithfully,

(A. V. Tarvadi)  
Under Secretary  
Ph. 23385674.

Sub, Nec Secy

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AS

✓ BY SPEED POST/  
FAX

GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

Dated Shillong the 3<sup>rd</sup> November, 2003.

No. NEC/ADM/8/2000.

To

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House,  
Shahjahan Road,  
New Delhi-110069.

Sub:

DPC- Deputy Director (A) in NEC- Implementation of the CAT order  
dated 31.7.2001 in OA No. 38 of 2002/CP No. 42/2002- (L) Shri N.K.  
Arjun Kanunjna Vs Union of India & Others.

Sir,

In inviting a reference to your letter No.1/24(30)/2003-AP.I dt. 24.10.03 on  
the subject cited above I am directed to enclose herewith a copy of an affidavit  
filed by the Secretary, NEC on 5/8/2003 which is self explanatory. Thereafter we  
have not heard anything from the Hon'ble CAT.

As regards the appeal No.5332/2002 in the High Court the case has been  
restored on 16.9.2003 and likely to come up for hearing after 10<sup>th</sup> November, 2003.

Ecnl. As above.

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

9/c



13  
NEC Sectt. Shillong.  
Administration Section.  
No 1898 Dt 24/11/03  
IMMEDIATE

FILE NO.F.1/24(30)/2003-AP.I.  
UNION PUBLIC SERVICE COMMISSION  
IDHOLPUR HOUSE, SHAHJAHAN ROAD  
NEW DELHI-110069.

DATED: 13TH NOVEMBER, 2003.

The Secretary to the Government of India,  
North Eastern Council Secretariat,  
Shillong.

(Kind attn.: - Shri R. Mathur, Deputy Secretary)

Subject: - DPC – Deputy Director (A) in NEC - Implementation of the CAT  
order dated 31.7.2001 in OA No.38 of 2002/CP No.42/2002-(L) –  
Shri N. K. A. Kanunjana Vs. Union of India & Others.

Sir,

I am directed to refer to your letter No. NEC/ADM/8/2000, dated 3<sup>rd</sup> November, 2003, on the above mentioned subject and to say that this office may please be intimated immediately the developments in the case referred to above which is stated to have come up for hearing on 10<sup>th</sup> November, 2003, as the same is required to be placed before the Hon'ble Commission.

Yours faithfully,

*(Signature)*  
(A. V. Tarvadi)  
Under Secretary  
Ph. 23385674.

20/11  
20/11/03  
S.L.

14 30 By Speed Post 44  
(30)

GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

No.NEC/ADM/8/2000.

Dated Shillong the 15<sup>th</sup> December, 2003.

To

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.

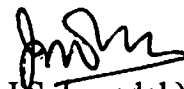
Sub: ~ Implementation of the CAT order dated 31.7.2001 in OA No.38 of 2002/CP  
No. 42/2002 (Late) Shri N.K. Arjun Kanunjna Vrs UOI and others.

Sir,

In inviting a reference to our telephonic discussion on 12.12.2003 on the subject mentioned above, I am directed to say that latest development of the case in CAT/High Court has been intimated to you time to time vide letter of even number dtd. 17.10.2003, 3.10.2003 and 4.12.2003 (copies enclosed). No further development has come up till date. However, any development come up in CAT/High Court will be intimated to the UPSC in time.

Encl: As above.

Yours faithfully,

  
( J.S. Lyngdoh)  
Section Officer (Admn.)

 16/12/03 JED

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BY SPEED POST

GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

No.NEC/ADM/8/2000.

Dated Shillong the 21<sup>st</sup> January, 2004.

To

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110011.


Sub: DPC- Deputy Director(A) in NEC- Implementation of the CAT order dated  
31.7.2001 in OA No.38 of 2002/CP No. 42/2002- (L) Shri N.K. Arjun Kanunjna  
Vrs Union of India & Others.

Sir,

I am directed to refer to the subject mentioned above and to furnish herewith details information as desired by you (ref. F.1/24(30)/2003-AP.I) dt. 17.11.2003.

1. In the CAT, Guwahati: The case in respect of Late N.K. A. Kanunjna came up for hearing on 20.1.2004. The Hon'ble Tribunal on 20.1.2004 has directed Respondent No.2 i.e. Secretary, NEC to appear in person before the Hon'ble Tribunal on 25.2.2004 as per written information dt. 20.1.2004 of Sr.C.G.SC.
2. In the Hon'ble High Court, Guwahati: As per direction of Hon'ble High Court on 2/12/2003 notice to the legal heirs for substitution has been issued in the Court on 6.1.2004 and this information has been collected by our representative visiting Guwahati on 20.1.2004.

Yours faithfully,

  
( J.S. Lyngdoh )  
Section Officer (Admn.)

Admn.letter ...66/-

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ISSUED

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BY SPEED POST (298)

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GOVERNMENT OF INDIA  
NORTH EASTERN COUNCIL SECRETARIAT  
TAXATION BUILDING, SHILLONG-793001.

No.NEC/ADM/8/2000.  
To

Dated Shillong the 4<sup>th</sup> December, 2003.

Shri A.V. Tarvadi,  
Under Secretary,  
Union Public Service Commission,  
Dholpur House, Shahjahan Road,  
New Delhi-110069.

Sub: DPC- Deputy Director(A) in NEC- Implementation of the CAT order dated  
31.7.2001 in OA No.38 of 2002/CP No. 42/2002- (L) Shri N.K. Arjun Kanunjna  
Vrs Union of India & Others.

Sir,

297

In inviting a reference to your letter No. 1/24(30)/2003-AP.I dt. 17.11.2003 on the subject cited above I am directed to say that nothing has come up after filing of affidavit in the CAT. However, a decision has been taken in the Hon'ble High Court, Guwahati to issue notice to the legal heirs for substitution a copy of the same is enclosed for necessary action.

Encl : As above.

P. 293-296

Yours faithfully,

( R. Mathur )  
Deputy Secretary.

07

5/12/03  
ISSUED

17

by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>Misc. Case No</p> <p>BEFORE <i>in Cus</i> 523</p> <p><b>HON'BLE THE CHIEF JUSTICE</b>  <b>HON'BLE MR JUSTICE B.K.SHARMA</b></p> <p>02.12.03</p> <p>Issue notice to the proposed legal heir  application for substitution.</p> <p>Notice is returnable by a month.</p> <p>Petitioner to take steps within three days.</p>

**Misc. Case No.2275/03**

BEFORE *in copies 5232/02*

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR JUSTICE B.K.SHARMA

02.12.03

Issue notice to the proposed legal heirs on the application for substitution.

Notice is returnable by a month.

**Petitioner to take steps within three days.**

Self - B. K. Sharma  
Judge  
Gauhati High Court  
Self - P. P. Nath  
Chief Justice

**CERTIFIED TO BE TRUE COPY**

Date 3rd day of Dec  
Superintendent (Comp. Section)

Ga. h. l. M. h. Co. 11

Authorized U/ 76, Act-I, 1872

3/12/2003