

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : _____
Misc. Petition No. _____
Contempt Petition No. _____ 65 / 02 in O.A. 330/2000
Review Application No. _____

Applicant(s): A.K. Pandey

- Vs. -

Respondent(s): U.O.I. Form

Advocate for the Applicant(s): B.K. Sharma, S. Sarma, U.K. Nair

Advocate for the Respondent(s): B.C. Patthak
A. Deb Roy Case

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt petition has been filed by the applicant praying for drawing up of a Contempt proceeding against the Contemner for their wilful and deliberate violation of the order dated 20.2.2002 passed by this Hon'ble Tribunal in O.A. 330/2000.</p> <p>Laid before the Hon'ble Court for further orders.</p> <p><u>For</u> <u>Section Officer</u></p> <p><u>Stamps & Envelopes not Received.</u> <u>24/1/03.</u> <u>Stamps not Received</u> <u>3/2/03</u> mb</p>	<p>24.01.2003</p> <p>mb</p> <p>20.2.2003</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Heard Mr. S. Sarma, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the contempt proceeding shall not be initiated.</p> <p>List on 25.2.2003 for orders.</p> <p><u>Sum</u> Member</p> <p><u>Vice-Chairman</u></p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Administrative Member.</p> <p>The xx applicant is ordered to take necessary steps within three days from today. List the matter for orders on 28.2.2003.</p> <p><u>S. Biswas</u> Member</p> <p><u>Vice-Chairman</u></p>

Steps not received
6/2/03.

Steps not yet taken
10/2/03

du-
13/2/03.

Steps not received
17/2/03

Steps received and sent
to D/S for using the
respondent No 1 to 3
by Regd. A.D.

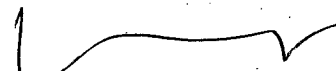
20/2/03
D/N_o 281 to 291 dtd 20/2/03

(2)
25.2.2003 Steps taken. Office to proceed accordingly. List the matter on 25.3.2003 for orders.


Vice-Chairman

mb

28.2.2003 put up the matter on 25.3.2003 as ordered earlier.


Vice-Chairman

bb

25.3.2003 Put up again on 29.4.2003 to enable Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents to obtain necessary instructions on the matter.



Member


Vice-Chairman

mb

29.4.2003 Heard Mr.S.Sarma, learned counsel for the applicant and also Mr.B.C.Pathak, learned Addl.C.G.S.C.

Mr.B.C.Pathak has stated that the Writ Petition filed against the order of the Tribunal was dismissed, but a Review application was filed against the judgment and order dated 1.10.2002 passed by the Hon'ble High Court in W.P.(C) No.6137/2002. Mr.Pathak also stated that the respondent No.1 is not holding the post and since transferred, let the matter come up again on 30.4.2003 for further orders.

Accordingly list the case on 30.4.2003. In the meantime the parties may take necessary steps to obtain necessary instruction on the matter.


Vice-Chairman

bb

30.4.2003

Put up the matter on 22.5.2003 for further orders.

Steps received today, 12/5/03

Notice prepared & sent to the respondent No. 1 by Dtd A/A.

D.No. 995 dtd 14/5/03

12/5/03

No reply has been filed

21/5/03

No reply has been filed

11/6/03

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. Put up again on 12.6.2003 for reply. The respondents may file reply in the meantime.

Member

Vice-Chairman

mb

12.6.2003 Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr. R.K. Upadhyaya, Member (A).

No reply so far filed though time granted. Let the respondent No. 1 appear in person and explain on 23.7.2003.

Member

Vice-Chairman

bb

13.6.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. R.K. Upadhyaya, Member (A).

13.6.2003

DEPUTY REGISTRAR (1/0)

This application was put up before the Court. It seems that the application is suffered from formal defect and without compliance of the Central Administrative Tribunal (Contempt of Courts) Rules, 1992, more particularly, clause f and g of the Rule 5. The application was put up and orders were passed without making verification. Explain forthwith.

Vice-Chairman

An order was passed on 12.6.03 in this Contempt Petition. On scrutiny it appears that the application suffered from formal defect and the same was placed before us without rectifying the defect. In the circumstances, we allow the applicant three days time to take appropriate measures for rectification of the same. If such rectification is not made within the specified time, the application will be dismissed without further notice. The order shall be put in the file.

Contd/-

13.6.2003

list again on 18.6.2003 for

order

13.6.2003

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

13.6.2003

DEPUTY REGISTRAR (I/C)

The Hon'ble Mr. R.K. Upadhyaya, Member (A).

The application is put up before the Court. It seems that the application suffers from formal defect and without compliance of the Central Administrative Tribunal (Contempt of Courts) Rules, 1992, more particularly, clause f and g of the Rule 5. The application was put up and orders were passed without making verification. Explain forthwith.

Vice-Chairman

An order was passed on 12.6.2003 in this Contempt Petition. On scrutiny it appears that the application suffered from formal defect and the same was placed before us without rectifying the defect. In the circumstances, we allow the applicant three days time to take appropriate measures for rectification of the same. If such rectification is not made within the specified time the application will stand dismissed. In the meantime, the order dated 12.6.2003 shall remain in abeyance.

List again on 18.6.2003 for orders.

Member

Vice-Chairman

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

The Hon'ble Mr. R.K. Upadhyaya, Member (A).

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. G.G.S.C. for the respondents.

Perused the office note. It seems that the applicant took steps and rectified the mistake. Considering the facts and circumstances of the case, we accept the rectification.

Let the respondent No.1 Sri B.K. Sinha, The Chief General Manager, Assam Circle, Guwahati appear in person and explain on 23.7.2003.

Member

Vice-Chairman

Notes of the Registry

Date

Orders of the Tribunal

23.7.2003

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

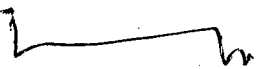
Heard Miss U. Das, learned
counsel on behalf of Mr. S. Sarma,
learned counsel for the applicant
and also Mr. B.C. Pathak, learned
Addl. C.G.S.C. for the respondents.

It has been stated by Mr. B.
C. Pathak, learned Addl. C.G.S.C.
for the respondents that the order
of the Tribunal dated 20.2.2002
passed in O.A. 330/200 has already
implemented and to that effect Mr.
Pathak referred to the communication
sent to him by the respondents vide
memo No. STES-21/44617 dated Guwahati
the 09/07/2003 and vide memo No. E-7/
PT&CM/Part-VI/2003-2004/33 dated
at Bongaigaon the 7th July, 2003.

The Copies of the communica-
tion ^{are} placed on record.

In view of the compliance, the
C.P. stands discharged.

7
Member


Vice-Chairman

mb

15.9.2003

Copy of the order
has been sent to
the D/Sec. for issuing
the rule to the L/Adm.
for the parties.

cel

R.D.
Bhattacharya
19/9/03

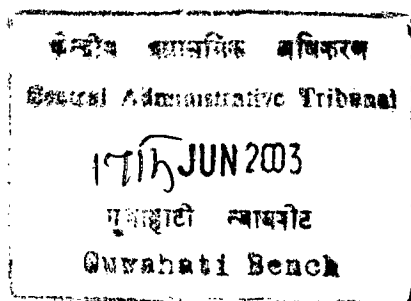
C.D.C.

6

Notes of the Registry

Date

Orders of the Tribunal



✓
Filed by
the petitioner through
Asha Das
Advocate
17/6/03

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

C.P.No. 65/2002.

OA No. 330/2000.

Ajay Kr. Pandey.

.....Applicant.

-VERSUS-

Union of India & Ors.

.....Respondents.

IN THE MATTER OF

An application Under Section 17 of the Central Administrative Tribunal Act, 1985 for drawing up of a contempt proceeding against the contemnors for their willful and deliberate violation of the judgment and order dated 20.2.2002 passed in OA No. 330/2000 by this Hon'ble tribunal.

-AND-

IN THE MATTER OF

An application Under Rule 24 of the Central Administrative Tribunal, (Procedure) Rules, 1987 for execution of the judgment and order dated 20.2.2002 passed in OA No. 330/2000 passed by this Hon'ble Tribunal.

-AND-

Ajay Kumar Pandey

B

- 2 -

IN THE MATTER OF

Sri Ajay Kr. Pandey,
Resident of Bongaigaon,
District- Kokrajhar.

.....Petitioner.

-versus-

1. Sri ~~B. K. Sinha~~

The Chief General Manager,
Assam Circle, Guwahati.

2. Sri R.K. Jaiswal,

The Divisional Engineer,
Telecom District Manager.
Bongaigaon.

3. Sri U.C. Deori.

The Divisional Engineer (P) Admn.
Office of the Telecom District Manager
Bongaigaon.

.....Contemners / Respondents.

The humble petitioner above named .

Most Respectfully Sheweth:-

1. That the petitioner assailing the legitimacy of the action of the Respondents in not considering the case of the applicant for regularisation of service pursuant to scheme / guidelines and direction of the Hon'ble Supreme Court of which under the similar fact situation like that of the applicant above named has been benefited and against the illegal termination of the services of the applicant. Further the common judgment and order dated 31.8.1999 in the OA No. 131/98 when the present petitioner was also an


Ajay Kumar Pandey

applicant, this Tribunal directed the Respondents to consider his case for regularisation. This Hon'ble Tribunal after hearing the parties to the proceeding was please to allow the aforementioned OA. Setting aside the impugned order dated 25.4.1997 cancelling order conferring temporary status dated 16.9.1996 to the applicant.

A copy of the judgment and order dated 20.2.2002 passed in OA No. 330/2000 is annexed herewith and marked as ANNEXURE-1.

2. That after the pronouncement of the aforesaid judgment the petitioner submitted the certified copy of the same to the concerned authority with a prayer to implement the same at an early date. However, the Respondents have not taken any initiative to implement the aforesaid judgment and order dated 20.2.2002 passed in O.A. NO 330/2000 passed by this Hon'ble Tribunal.

3. That the petitioner begs to state that the contemners knowing fully well about the same, Even the contemners have not yet initiated any step for implementation of the aforesaid judgment. The wordings of the aforesaid judgment is very clear and unambiguous and thus there should not have been any difficulty for the contemners to implement the same.

4. That the petitioner begs to state that he has been visiting the office of the Contemners every alternative day with a prayer to implement the judgment but despite his desperate efforts  nothing came out in positive. on

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- 4 -

13.8.2002 he again sent a legal notice through his counsel to the contemner No.1 describing the fact situation and making a demand to implement the same at an early date.

A copy of the aforesaid legal notice dated 13.8.2002 is annexed herewith and marked as ANNEXURE-2.

5. That from the facts narrated herein above, it is evident that the Respondents have contained to act in violation of the judgment and order dated 20.2.2002 passed in OA No.330/2000. The contemnners have committed contempt of this Hon'ble Tribunal showing complete disregard to the majesty of this Hon'ble Tribunal. Hence this Hon'ble Tribunal may be pleased to draw contempt proceeding against the contemnners and to punish them severely for their willful and deliberate violation of the order dated 20.2.2002 (Annexure-1). It is stated that in the present case Your Lordships would graciously be pleased to call for the personal appearance of the contemnners while issuing notice in this Contempt Petition and also may be pleased to pass an appropriate order ensuring the effective implementation of the judgment and order dated 20.2.2002 passed in OA No. 330/2000 invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rule, 1987.

6. That this petition has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to issue notice to the contemnners to show

Ajay Kumar Pandey

cause as to why appropriate contempt proceeding shall not be drawn against them and upon hearing the parties to the proceeding and on perusal of the records on cause or causes that may be shown, be pleased to punish the contemners severely for committing contempt of this Hon'ble Tribunal by their act of willful and deliberate violation of the order dated 20.2.2002 passed in OA No.330/2000 or be further pleased to pass necessary order for enforcement / implementation of the said order dated 20.2.2002 and / or to pass any such order/ orders as Your Lordships deemed fit and proper considering the facts and circumstances of the case.

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

Ajay Kumar Pandey

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- 6 -

DRAFT CHARGE

Whereas Sri G.C. Grover, The Chief General Manager, Assam Telecom Circle, Guwahati, Sri R.K. Jaiswal, The Divisional Engineer, Telecom District Manager, Bongaigaon and Sri U.C. Deori, The divisional Engineer (P) Admn., Bongaigaon have willfully and deliberately violated the judgment and order dated 20.2.2002 passed in DA No.330/2000 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, and as such they are liable to be punished under the provisions contained in contempt of Courts Act for such act of willful and deliberate violation.

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- 7 -

AFFIDAVIT

I Shri Ajay Kumar Pandey , son of Shri Banarasi Pandey, aged about 32 years, R/o . Bongaigaon, do hereby solemnly affirm and state as follows ;

1. That I am the Petitioner in the aforesaid Contempt Petition and as such fully acquainted with the facts and circumstances of the case and hence competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying petition in paragraphs 2, 3, 5 and 6 are true to my knowledge and those made in paragraphs 1 and 4 are matters records which I believed to be true and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this affidavit on this the 17th day of June, 2003 at Guwahati.

Identified by:
Usha Das
Advocate.

Ajay Kumar Pandey
Deponent.

Solemnly affirm and declared by the deponent, who is identified by Miss U. Das Advocate on this the 17th day of June, 2003.

Lidham Law
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.330 of 2000

Date of decision: This the 20th day of February 2002

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

Shri Ajoy Kr Pandey,
Resident of Bongaigaon,
District- Kokrajhar.Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma and
Mr U.K. Nair.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Telecommunication,
New Delhi.
2. The Chairman,
Telecom Commission,
New Delhi.
3. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
4. The Divisional Engineer,
Telecom District Manager,
Bongaigaon.Respondents

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

ORDER (ORAL)

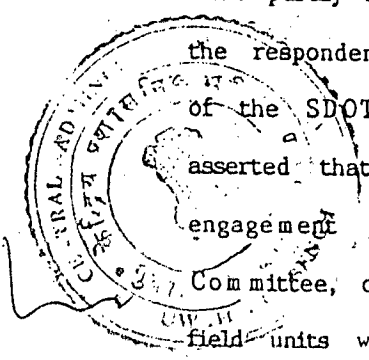
CHOWDHURY. J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the legitimacy of the action of the respondents in seeking to review its decision of conferring temporary status. By order dated 16.9.1996 on the strength of the orders contained vide letter No.269-4/93-STN-II dated 17.12.1993 of the DOT, New Delhi, the applicant alongwith 12 others was conferred temporary status in the Office of the Telecom District Manager, Bongaigaon. By order dated 9.10.1996 the approval for conferring status to these persons vide order dated 16.9.1996 was kept in abeyance till further orders. The applicant

Attested
N.S.
Advocate

assailed the order dated 9.10.1996 in O.A.No.131 of 1998. This Bench by Judgment and Order dated 31.8.1999 disposed of the said O.A. alongwith a series of other O.A.s directing the respondent authority to examine the case of each of those applicants. The applicants were also provided with an opportunity to submit representations narrating their grievances. Pursuant to the order of the Tribunal, according to the applicant, he submitted representation before the authority, but since the same was not disposed of and as the applicant was not absorbed he moved this Tribunal again seeking for appropriate direction from this Tribunal.

2. The respondents submitted their written statement and in the written statement the respondents have mentioned that a Review Committee was formed for scrutinising the order for conferring temporary status to the 13 persons including the applicant as shown in the notice dated 9.10.1996 and the said committee remarked that the order dated 16.9.1996 was not regular since the requisite conditions were not fulfilled by any of the thirteen persons mentioned therein and accordingly the order dated 16.9.1996 conferring temporary status to them, which was first kept in abeyance by order dated 9.10.1996, was cancelled vide order dated 25.4.1997. The respondents also stated and contended that these persons did not fulfil the eligibility criteria for being conferred the temporary status and they were only engaged for a very small duration on day to day basis on exigency of service to meet the requirements. It was also asserted that their engagements were purely casual and of intermittent nature. In the written statement the respondents also disputed the correctness of the communication of the SDOT, Kokrajhar dated 2.7.1996. The respondents specifically asserted that a Review Committee was constituted to verify the engagement particulars of these thirteen persons and the Review Committee, on examination, found that the report submitted by the field units were wrong and that none of the casual labourers were eligible.....



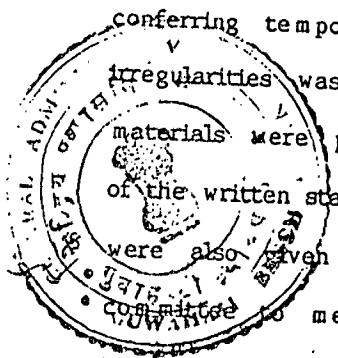
Attested
by
Advocate

eligible for being granted temporary status. Accordingly the order dated 16.9.1996 conferring temporary status to the thirteen persons was cancelled by order dated 25.4.1997. The applicant assailed the order dated 25.4.1997 on coming to know about the same from the written statement of the respondents by filing an amendment petition in M.P. No.24 of 2002.

3. I have heard Mr B.K. Sharma, learned Sr. counsel for the applicant assisted by Mr U.K. Nair, learned Advocate and also Mr A. Deb Roy, learned Sr. C.G.S.C. Admittedly, the applicant was conferred with temporary status on 16.9.1996. The conferment of temporary status was made by the authority in pursuance to the order contained vide letter No.269-4/93-STN-II dated 17.12.1993 of the DOT, New Delhi. The list consisted of thirteen casual Mazdoors including the applicant of Bongaigaon SSA who were engaged by the Circle during the period from 31.3.1985 to 22.6.1988 and were continuing in the circle where they were initially engaged and were not absent for the last 966 days. It appeared that a conscious decision was taken by the respondents and the decision must have been taken on consideration of the materials on record. Official acts are presumed to be done regularly. However, the approval conferring temporary status was subsequently kept in

of temporary status to these persons was cancelled by the impugned order dated 25.4.1997. On a bare perusal of the order dated that the aforesaid exercise by constituting a Review Committee was made on receipt of complaints from the staff side regarding irregularities on conferring temporary status to casual Mazdoors. The nature of the irregularities was not pointed out to the applicant. At least no such materials were produced. Mr Deb Roy, however, referred to para 8 of the written statement, wherein it was stated that the casual labourers were also given the opportunity to present their case, before the committee to meet the ends of justice. Apparently, para 8 referred to the exercise made by the reviewing committee formed for scrutinising

the.....



*Attested
by
Advocate*

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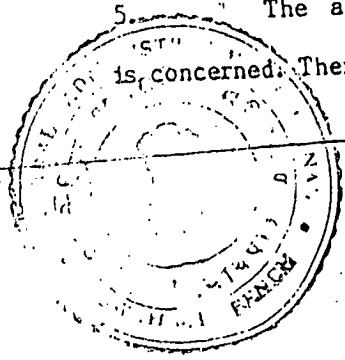
the case for conferring temporary status, i.e. an exercise that took place pursuant to the order of the Tribunal in O.A.No.131 of 1998. In para 8 itself it has been stated that the exercise was carried out pursuant to the order of the Tribunal dated 31.8.1999 in O.A.No.131 of 1998. In the case in hand, the applicant was already granted temporary status on 16.9.1996 on the basis of his engagement as casual labourer during the period 1985-1988. The written statement is also specifically silent on this issue. At any rate there are no materials

to show that the applicant was intimated about any of the irregularities.

The order dated 25.4.1997 is visited with civil consequences and the said order was passed without affording any opportunity to the applicant to defend his case before the authority. The Scrutiny Committee only dealt with the cases of those casual labourers who were engaged from 1993 to 1998. So far this applicant is concerned, his case was for conferment of temporary status for the work rendered by him as casual labourer on and from 1988 in the Circle.

cancelling the order conferring temporary status, the applicant cannot be sustained and the same is thus set aside.

5. The application is accordingly allowed so far the applicant is concerned. There shall, however, be no order as to costs.



nk m

Sd/ VICE CHAIRMAN

Certified to be true Copy

25/11/2012
Section Officer (A)

आधुनिक अधिकारी (आधुनिक शाखा)
Central Administrative Tribunal
Guwahati Bench, Guwahati
बराहपुत्री न्यायपीठ, बराहपुत्री-३

Attested
was
Advocate

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SIDDHARTHA SARMA
ADVOCATE

- 12 -

ANNEXURE - 2

M. A. Road, Rehabari
Guwahati - 781 008
Phone No. : 522995

Date 13/8/02

Ref. C: WSX/LN-1

To,
The Chief General Manager (Telecom)
Assam Telecom Circle.
Ulubari, Guwahati-7.

Subj:- Legal Notice.

Sir,

Upon authority and as per instruction of my client Sri Ajay Pandey, resident of Bongaigaon, Dist: Kokrajhar, applicant in OA No.330/2000, I give you this notice as follows.

That by an order dated 16.9.1996 on the strength of order contained vide letter No.269-4/93-STN-11 dated 17.12.1993 of DOT, New Delhi my client along with 12 other were conferred with temporary status in the office of the TDM Bongaigaon. By an order dated 9.10.1996 the order dated 16.9.1996 has been kept in abeyance till further orders and there after same was canceled vide order dated 25.4.1997. My aforesaid client assailed the said orders by filing OA No.131/1998 before CAT/GHY. The OA mentioned above was disposed of by Judgment and order dated 31.8.1999 directing you to examine the case. However, no action has been taken in this regard and thus he had no ~~alternatives~~ to move the CAT/GHY once again by way of filing OA No.330/2000. The aforementioned OA has been allowed vide Judgment and order dated 20.2.2002 by quashing the order dated 25.4.1997.

That the wordings of the Judgment is very clear and I do not think that in that more clarification is necessary. Since the order dated 25.4.1997 has been set aside, the order conferring temporary status dated 16.9.1996 got revived. However, there has been a complete silence from your side regarding its implementation.

That my client aforesaid repeatedly pursuing the matter before the concerned authority but same is yet to yield any result in affirmative.

In that view of the matter I give you this notice making a demand that my client be reinstated in his

Attested
by
Advocate

SIDDHARTHA SARMA
ADVOCATE

- 13 -

M. A. Road, Rehabari
Guwahati - 781 008
Phone No. : 522995

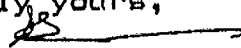
Date 13/8/02

earlier service forthwith with temporary status and to pay him the arrears salary and seniority within a period of 15 days from the date of receipt of this notice failing which instruction of my client is to initiate contempt proceeding against you.

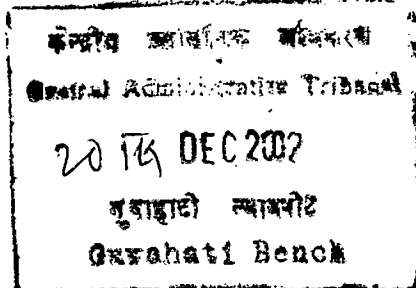
I hope and trust that there would be no such occasion for any such proceedings.

Thanking you.

Sincerely yours,


Siddhartha Sarma.

Attested
W.S.
Advocate



BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

Filed by
the petitioner through
Alsha Das
Advocate
17/12/02

NM C.P.No. 65/02.

DA No. 330/00.

Ajay Kr. Pandey.

.....Applicant.

-VERSUS-

Union of India & Ors.

.....Respondents.

IN THE MATTER OF

An application Under Section 17 of the Central Administrative Tribunal Act, 1985 for drawing up of a contempt proceeding against the contemners for their willfull and deliberate violation of the judgement and order dated 20.2.2002 passed in DA No. 330/2000 by this Hon'ble tribunal.

-AND-

IN THE MATTER OF

An application Under Rule 24 of the Central Administrative Tribunal, (Procedure) Rules, 1987 for execution of the judgement and order dated 20.2.2002 passed in DA No. 330/2000 passed by this Hon'ble Tribunal.

-AND-

IN THE MATTER OF

Sri Ajay Kr. Pandey,
Resident of Bongaigaon,
District- Kokrajhar.

.....Petitioner.

-versus-

1. Sri G.S. Grover,
The Chief General Manager,
Assam Circle, Guwahati.
2. Sri R.K. Jaiswal,
The Divisional Engineer,
Telecom District Manager,
Bongaigaon.
3. Sri U.C. Deori,
The Divisional Engineer (P) Admn.
Office of the Telecom District Manager
Bongaigaon.

.....Contemners / Respondents.

The humble petitioner above named .

Most Respectfully Sheweth:-

1. That the petitioner assailing the legitimacy of the action of the Respondents is not considering the case of the applicant for regularisation of service pursuant to scheme / guidelines and direction of the Hon'ble Supreme Court of which under the similar fact situation like that of the applicant above named has been benefited and against the illegal termination of the services of the applicant. Further the common judgement and order dated 31.8.1997 in the OA No. 131/98 when the present petitioner was also an

applicant, this Tribunal directed the Respondents to consider his case for regularisation. This Hon'ble Tribunal after hearing the parties to the proceeding was please to allow the aforementioned OA. Setting aside the impugned order dated 25.4.1997 cancelling order conferring temporary status dated 16.9.1996 to the applicant.

A copy of the judgement and order dated 20.2.2002 passed in OA No. 330/2000 is annexed herewith and marked as ANNEXURE-1.

2. That after the pronouncement of the aforesaid judgment the petitioner submitted the certified copy of the same to the concerned authority with a prayer to implement the same at an early date. However, the Respondents have not taken any initiated to implement the aforesaid judgement and order dated 20.2.2002 passed in O.A. NO 330/2000 passed by this Hon'ble Tribunal.

3. That the petitioner begs to state that the contemnors knowing fully wellly about the same. Even the contemnors have not yet initiated any step for implementation of the aforesaid judgment. The wordings of the aforesaid judgment is very clear and unambiguous and thus there should not have been any difficulty for the contemnors to implement the same.

4. That the petitioner begs to state that he has been visiting the office of the Cotemnes every alternative day with a prayer to implement the judgment but despite his desperate efforts hen nothing came out in positive. on

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13.8.2002 he again sent a legal notice through his counsel to the contemner No.1 describing the fact situation and making a demand to implement the same at an early date.

A copy of the aforesaid legal notice dated 13.8.2002 is annexed herewith and marked as ANNEXURE-2.

5. That from the facts narrated herein in above, it is evident that the Respondents have contained to act in violation of the judgement and order dated 20.2.2002 passed in OA No.330/2000. The contemnners has committed contempt of this Hon'ble Tribunal showing complete disregard to the majesty of this Hon'ble Tribunal. Hence this Hon'ble Tribunal may be pleased to draw contempt proceeding against the contemnners and to punish them severely for their willfull and deliberate violation of the order dated 20.2.2002 (Annexure-1). It is stated that in the present case Your Lordships would graciously be pleased to call for the personal appearance of the contemnners while issuing notice in this Contempt Petition and also may be pleased to pass an appropriate order ensuring the effective implementation of the judgement and order dated 20.2.2002 passed in OA No. 330/2000 invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rule, 1987.

6. That this petition has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to issue notice to the contemnners to show cause as

to by appropriate contempt proceeding shall not be drawn against them and upon hearing the parties to the proceeding and on perusal of the records on cause or causes that may be shown, be pleased to punish the contemnors severely for committing contempt of this Hon'ble Tribunal by their act of willfull and deleberate violation of the order dated 20.2.2002 passed in OA No.330/2000 or be further pleased to pass necessary order for enforcement / implementation of the said order dated 20.2.2002 and / or to pass any such order/ orders as Your Lordships deemed fit and proper considering the facts and circumstances of the case.

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

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DRAFT CHARGE

Whereas Sri G.C. Grover, The Chief General Manager, Assam Telecom Circle, Guwahati, Sri R.K. Jaiswal, The Divisional Engineer, Telecom District Manager, Bongaigaon and Sri U.C. Deori, The divisional Engineer (P) Admn., Bongaigaon have willfully and deliberately violated the judgement and order dated 20.2.2002 passed in OA No.330/2000 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, and as such they are liable to be punished under the provisions contained in contempt of Courts Act for such act of willfull and deleberate violation.

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AFFIDAVIT

I Shri Ajay kumar Pandey , son of Shri Banarasi Pandey, aged about 32 years, R/o . Bongaigaon, do hereby solemnly affirm and state as follows :

1. That I am the Petitioner in the aforesaid Contempt Petition and as such fully acquainted with the facts and circumstances of the case and hence competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying petition in paragraphs _____ are true to my knowledge and those made in paragraphs _____ are matters records which I believed to be true and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this affidavit on this the ____ day of october, 2002 at Guwahati.

Identified by:

Advocate.

Deponent.

Solemnly affirm and declared by the deponent, who is identified by Miss U. Das Advocate on this the ____ day of october 2002.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.330 of 2000

Date of decision: This the 20th day of February 2002

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

Shri Ajoy Kr Pandey,
Resident of Bongaigaon,
District- Kokrajhar.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma and
Mr U.K. Nair.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Telecommunication,
New Delhi.

2. The Chairman,
Telecom Commission,
New Delhi.

3. The Chief General Manager,
Assam Telecom Circle,
Guwahati.

4. The Divisional Engineer,
Telecom District Manager,
Bongaigaon.

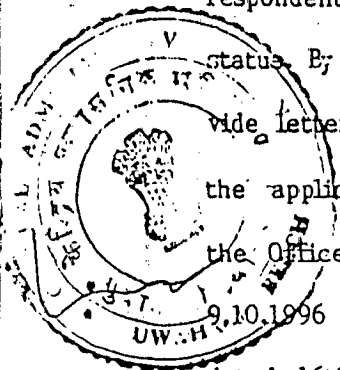
.....Respondents

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

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the legitimacy of the action of the respondents in seeking to review its decision of conferring temporary status. By order dated 16.9.1996 on the strength of the orders contained vide letter No.269-4/93-STN-II dated 17.12.1993 of the DOT, New Delhi, the applicant alongwith 12 others was conferred temporary status in the Office of the Telecom District Manager, Bongaigaon. By order dated 9.10.1996 the approval for conferring status to these persons vide order dated 16.9.1996 was kept in abeyance till further orders. The applicant



Advocate

assailed the order dated 9.10.1996 in O.A.No.131 of 1998. This Bench by Judgment and Order dated 31.8.1999 disposed of the said O.A. alongwith a series of other O.A.s directing the respondent authority to examine the case of each of those applicants. The applicants were also provided with an opportunity to submit representations narrating their grievances. Pursuant to the order of the Tribunal, according to the applicant, he submitted representation before the authority, but since the same was not disposed of and as the applicant was not absorbed he moved this Tribunal again seeking for appropriate direction from this Tribunal.

2. The respondents submitted their written statement and in the written statement the respondents have mentioned that a Review Committee was formed for scrutinising the order for conferring temporary status to the 13 persons including the applicant as shown in the notice dated 9.10.1996 and the said committee remarked that the order dated 16.9.1996 was not regular since the requisite conditions were not fulfilled by any of the thirteen persons mentioned therein and accordingly the order dated 16.9.1996 conferring temporary status to them, which was first kept in abeyance by order dated 9.10.1996, was cancelled vide order dated 25.4.1997. The respondents also stated and contended that these persons did not fulfil the eligibility criteria for being conferred the temporary status and they were only engaged for a very small duration on day to day basis on exigency of service to meet the requirements. It was also asserted that their engagements were purely casual and of intermittent nature. In the written statement the respondents also disputed the correctness of the communication of the SDOT, Kokrajhar dated 2.7.1996. The respondents specifically asserted that a Review Committee was constituted to verify the engagement particulars of these thirteen persons and the Review Committee, on examination, found that the report submitted by the field units were wrong and that none of the casual labourers were eligible.....

Attested
W.D. on
Advocate.

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eligible for being granted temporary status. Accordingly the order dated 16.9.1996 conferring temporary status to the thirteen persons was cancelled by order dated 25.4.1997. The applicant assailed the order dated 25.4.1997 on coming to know about the same from the written statement of the respondents by filing an amendment petition in M.P. No.24 of 2002.

3. I have heard Mr B.K. Sharma, learned Sr. counsel for the applicant assisted by Mr U.K. Nair, learned Advocate and also Mr A. Deb Roy, learned Sr. C.G.S.C. Admittedly, the applicant was conferred with temporary status on 16.9.1996. The conferment of temporary status was made by the authority in pursuance to the order contained vide letter No.269-4/93-STN-II dated 17.12.1993 of the DOT, New Delhi. The list consisted of thirteen casual Mazdoors including the applicant of Bongaigaon SSA who were engaged by the Circle during the period from 31.3.1985 to 22.6.1988 and were continuing in the circle where they were initially engaged and were not absent for the last 365 days. It appears that a conscious decision was taken by the respondents and the decision must have been taken on consideration of the materials on record. Official acts are presumed to be done regularly. However, the approval conferring temporary status was subsequently kept in abeyance vide communication dated 9.10.1996 and finally the conferment of temporary status to these persons was cancelled by the impugned order dated 25.4.1997. On a bare perusal of the order dated that the aforesaid exercise by constituting a Review Committee was made on receipt of complaints from the staff side regarding irregularities on conferring temporary status to casual Mazdoors. The nature of the irregularities was not pointed out to the applicant. At least no such materials were produced. Mr Deb Roy, however, referred to para 8 of the written statement, wherein it was stated that the casual labourers were also given the opportunity to present their case before the committee to meet the ends of justice. Apparently, para 8 referred to the exercise made by the reviewing committee formed for scrutinising

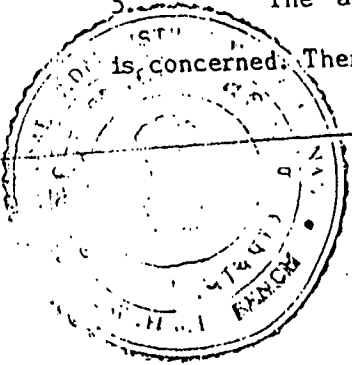
the.....

AKO
UDR
Advocate.

the case for conferring temporary status, i.e. an exercise that took place pursuant to the order of the Tribunal in O.A.No.131 of 1998. In para 8 itself it has been stated that the exercise was carried out pursuant to the order of the Tribunal dated 31.8.1999 in O.A.No.131 of 1998. In the case in hand, the applicant was already granted temporary status on 16.9.1996 on the basis of his engagement as casual labourer during the period 1985-1988. The written statement is also specifically silent on this issue. At any rate there are no materials to show that the applicant was intimated about any of the irregularities. The order dated 25.4.1997 is visited with civil consequences and the said order was passed without affording any opportunity to the applicant to defend his case before the authority. The Scrutiny Committee only dealt with the cases of those casual labourers who were engaged from 1993 to 1998. So far this applicant is concerned, his case was for conferment of temporary status for the work rendered by him as casual labourer on and from 1988 in the Circle. ✓

4. In the circumstances the impugned order dated 25.4.1997 cancelling the order conferring temporary status dated 16.9.1996 to the applicant cannot be sustained and the same is thus set aside.

5. The application is accordingly allowed so far the applicant is concerned. There shall, however, be no order as to costs.



Sd/ VICE CHAIRMAN

Certified to be true Copy,
 प्रमाणित प्रतिलिपि

Section Officer (A)

आयुक्त अधिकारी (अ) (प्रशासनिक शाखा)
 Central Administrative Tribunal
 केन्द्रीय प्रशासनिक अधिकरण
 Guwahati Bench, Guwahati-8
 गुवाहाटी न्यायपीठ, गुवाहाटी-8

nk.m

Amended
 W.D.
 16.10.2006

DDHARTHA SARMA
ADVOCATE

- 12 -

ANNEXURE-2

M. A. Road, Rehabari
Guwahati - 781 008
Phone No. : 522995

Rf. c: WS7/LN-1

Date 13/8/02

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To,
The Chief General Manager (Telecom)
Assam Telecom Circle.
Ulubari, Guwahati-7.

Sub:- Legal Notice.

Sir,

Upon authority and as per instruction of my client Sri Ajay Pandey, resident of Bongaigaon, Dist: Kokrajhar, applicant in OA No.330/2000, I give you this notice as follows.

That by an order dated 16.9.1996 on the strength of order contained vide letter No.269-4/93-STN-11 dated 17.12.1993 of DOT, New Delhi my client along with 12 other were conferred with temporary status in the office of the TDM Bongaigaon. By an order dated 9.10.1996 the order dated 16.9.1996 has been kept in abeyance till further orders and there after same was canceled vide order dated 25.4.1997. My aforesaid client assailed the said orders by filing OA No.131/1998 before CAT/GHY. The OA mentioned above was disposed of by Judgment and order dated 31.8.1999 directing you to examine the case. However, no action has been taken in this regard and thus he had no ~~occasions~~ ^{opportunities} to move the CAT/GHY once again by way of filing OA No.330/2000. The aforementioned OA has been allowed vide Judgment and order dated 20.2.2002 by quashing the order dated 25.4.1997.

That the wordings of the Judgment is very clear and I do not think that in that more clarification is necessary. Since the order dated 25.4.1997 has been set aside, the order conferring temporary status dated 16.9.1996 got revived. However, there has been a complete silence from your side regarding its implementation.

That my client aforesaid repeatedly pursuing the matter before the concerned authority but same is yet to yield any result in affirmative.

In that view of the matter I give you this notice making a demand that my client be reinstated in his

Attested
WDS
Advocate.

Date 13/8/02

earlier service forthwith with temporary status and to pay him the arrears salary and seniority within a period of 15 days from the date of receipt of this notice failing which instruction of my client is to initiate contempt proceeding against you.

I hope and trust that there would be no such occasion for any such proceedings.

Thanking you.

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Sincerely yours,

Siddhartha Sarma.

Attested
u/s
Advocate.