

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : _____
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____ 12/03 in O.A 187/2000


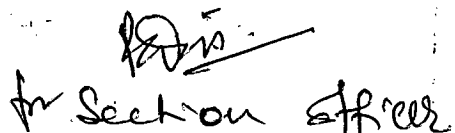
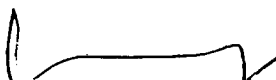
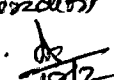


Applicant(s): Apurba Ghosh

- Vs. -

Respondent(s): W.O.I. Pans

Advocate for the Applicant(s): Mr. M. Chanda, G.N. Chakrabarty

Advocate for the Respondent(s): CGSE.

Notes of the Registry	Date	Order of the Tribunal
This Contempt Petition has been filed by the Counsel for the applicant praying for initiation of a Contempt proceeding against the alleged Contemners for non-compliance of the Judgment mb. and order dated 5.3.2001 passed by this Hon'ble Tribunal in O.A 187/2000.	11.2.2003	Heard Mr. M. Chanda, learned counsel for the applicant. Issue notice to show cause as to why the contempt proceeding shall not be initiated. List on 12.3.2003 for orders.
vide before the Hon'ble Tribunal for further orders.	12.3.2003	 Vice-Chairman Await service report. Put up again on 26.3.2003 for order.
 Section Officer	26.3.2003	 Vice-Chairman Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents prayed for time to file reply. List on 30.4.2003 for reply.
Notice prepared and sent to P/S for necessary fresh order No 182 by Regd. A/S.  D/No 2725/13 dt 20/2/03	mb	 Member  Vice-Chairman

No. reply has been
billed.

By
11.3.03.

No. reply has been
billed.

By
25.3.03.

No. reply has been
billed.

By
29.4.03.

No. reply has been
billed.

By
20.5.03.

No. reply has been
billed.

By
16.6.03.

18.6.2003

Copy of the order
has been sent to the
offce. for issuing the
due to the L/Advocates
for the parties.

30.4.2003

No reply so far filed by the
respondents. On the prayer of Mr. B.
C. Pathak, learned Addl. C.G.S.C.
for the respondents further three
weeks time is allowed to the respond-
ents to file reply if any.

List on 21.5.2003 for orders.


Vice-Chairman

mb

21.5.2003

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

The Hon'ble Mr. S.K. Hajra,
Administrative Member.

Put up again on 17.6.2003 to
enable the respondents to file reply,
if any.


Member


Vice-Chairman

mb

17.6.2003

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

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

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

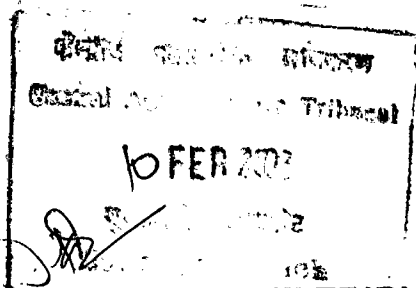
It appears that the judgment and
order of the Tribunal in O.A. No.187/2000
dated 5.3.2001 has been complied with.
Accordingly, the C.P. stands closed.

A copy of the memo dated 23.5.2003
forwarding of demand draft is placed on
record.


Member


Vice-Chairman

mb



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

Contempt Petition No. 12/2000

In O.A. No.187 of 2000

Sri Apurba Ghosh

.....Petitioner

--Versus--

Sri H.L. Thangloiah & Ors.

.....Alleged Contemnners

--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 contemnners for non-compliance of the judgment and order dated 05-03-2001 passed in O.A. No.187/2000.

--AND--

3
1
Filed by the applicant-
through Sri G. N.
Chakravarty Advocate:
Smt.

In the matter of :

Shri Apurba Ghosh,
Son of Sri Amarendra Narayan Ghosh,
Senior Engineering Assistant, All
India Radio, Guwahati, resident of
village Gangamia, P.O. Kuleynia,
Satgachia, P.S. Montswar, District,
Burdwan, West Bengal.

-versus-

1. Sri H.L.Thangloiah
Station Director,
All India Radio, Guwahati.
2. Sri V. Sechoksha
Deputy Director,
All India Radio
Guwahati.

....Alleged Contemners

The humble petitioner above named Most Respectfully
Sheweth :

1. That your applicant being highly aggrieved by the
decision of the alleged contemners for non payment of
Special Duty Allowance approached this Hon'ble Tribunal
praying for a direction upon the alleged
contemners/respondents for a direction to pay Special

Duty Allowance along with the arrears through Original Application No. 187/2000 The said Original Application was disposed of by this Hon'ble Tribunal vide its Judgment and Order dated 5.3.2001 with the direction to pay SDA to the applicants on the date of their subsequent posting in North Eastern Region within a period of six months from the date of receipt of a certified copy of the order.

A Copy of the judgment and order dated 5.3.2001 is annexed herewith as **Annexure-I**.

2. That your applicant immediately after receipt of the certified copy of the order dated 5.3.2002 submitted his representation along with a copy of the order on 16.04.2001 to the alleged contemner no.1 through proper channel with a copy to the alleged contemner no.2, but to no result.

Copy of the representation dated 16.04.2001 is annexed herewith as **Annexure. II.** *and Representation dated 09-04-2001 as Annexure - III*

3. That your applicant finding no response being disappointed submitted another representation on 9.1.2001 to the alleged contemner no.1 with a copy to the alleged contemner no.2. But most surprisingly no action is taken till date either by the alleged contemner no.1 or contemner no.2 for compliance of the Hon'ble Tribunal's order dated 05.03.2001. Therefore

it appears that the alleged contemnors willfully disobeyed the order of the Hon'ble Tribunal.

4. That it is stated that the alleged contemnors deliberately and willfully did not initiate any action for implementation of the judgment and order dated 5.3.01, thus disregarding the order of the Hon'ble Tribunal which amounts to contempt of court. Therefore, the Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemnors for willful violation of the order of the Tribunal dated 5.3.01.
5. That it is a fit case for the Hon'ble Tribunal for initiation of Contempt of proceeding for deliberate and willful non-compliance of the judgment and order dated 05.03.01 passed in O.A. No. 187/2000.
6. That this application is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemnors for wilful non-compliance of the order dated 05.03.2001 passed in O.A. No. 187/2000 and further be pleased to impose punishment upon the alleged contemnors in accordance with law and

further be pleased to pass any such other order or orders as deem fit and proper by the Hon'ble Tribunal.

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

AFFIDAVIT

I, Shri Apurba Ghosh, Son of Sri Amarendra Narayan Ghosh, Senior Engineering Assistant, All India Radio, petitioner in the instant contempt petition, do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such acquainted with the facts and circumstances thereof and competent to sign this affidavit.
2. That the statement made in para 1 to 6 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's judgment and order dated 05.03.2001 passed in O.A. No. 187/2000.

And I sign this Affidavit on this the 12/1 day of _____, 2002.

Identified by

G. N. Chakravarty
Advocate

Apurba Kumar Ghosh
Deponent

*Solemnly affirmed
and declared by
the Deponent
who is identified
by Sri G. N. Chakravarty
advocate.*

Alsha Das.
Advocate

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the alleged contemnners/Respondents for wilful and deliberate non-compliance of order of the Hon'ble Tribunal dated 05.03.2001 passed in O.A. No. 187/2000 and further be pleased to impose punishment upon the alleged Contemnners/Respondents for wilful and deliberate non-compliance of order dated 05.03.2001 passed in O.A. No. 187/2000.

6
Annexure - I

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 187 of 2000.

Date of order : This the 5th day of March, 2001.

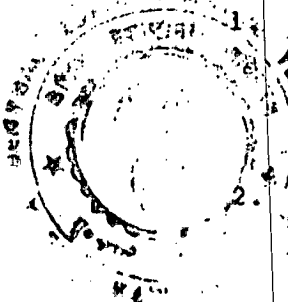
Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

1. Sri Apurba Kumar Ghosh
Son of Shri Amrendra Narayan Ghosh
Senior Engineering Assistant
All India Radio, Guwahati
resident of village Gangamia
P.O. Kuleynia, Satgachia
P.S. Monteswar,
District Burdwan, West Bengal.
2. Sri Sujit Kumar Soam
Senior Engineering Assistant
All India Radio, Guwahati
Resident of village Hairagram
P.O. Batgobindapur
District-Burdwan,
West Bengal

Applicants

By Advocate Mr. M.Chanda.

-versus-

- 
1. The Union of India
Represented through the Secretary
to the Government of India,
Ministry of Information and Broadcasting,
New Delhi.
 2. The Director General
All India Radio
New Delhi.
 3. The Chief Engineer(EZ),
All India Radio & television
Akashvani Bhawan, Eden Garden,
Calcutta.
 4. The Station Director,
All India Radio,
Guwahati.
 5. The Deputy Director
All India Radio,
Guwahati.
 6. The Administrative Officer,
All India Radio,
Station Guwahati,
Guwahati.

...Respondents

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

Contd...

*Admitted
Advocate*

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The admissibility of Special Duty Allowance to these two applicants is the issue involved in this application. The applicants are working as Senior Engineering Assistants in the All India Radio, Guwahati. Both of them hail from district Burdwan, West Bengal. The applicant No. 1 was initially appointed as Engineering Assistant in All India Radio, Station Guwahati vide order dated 21.7.1988. He worked in Guwahati upto 7.6.1993 in Doordarshan Kendra thereafter he was transferred to Doordarshan Kendra, Murshidabad, Behrampore, West Bengal. While the applicant was posted in Guwahati he found to be eligible for SDA under the Scheme of 1983 and revised scheme of 1988 and he was paid SDA upto 31.5.1993. The applicant no.1 was thereafter transferred to Murshidabad in the month of June 1993 and continued to work at Murshidabad till September 1997. He was transferred from Murshidabad to All India Radio, Guwahati on 13.10.1997 and he joined at Guwahati accordingly thereafter. The applicant No.2 was initially posted at Ranchi, All India Radio, as Engineering Assistant. He was transferred and posted from All India Ranchi to All India Radio, Shillong in the year 1988 and accordingly he reported for duty at Shillong on 16.12.1988 and continued thereat Shillong upto 26.12.1993. During the said period of stay at Shillong the applicant was declared eligible for Special Duty Allowance and he was paid SDA. Subsequently in the last part of 1993 he was ordered for posting in AIR, Calcutta and accordingly he joined thereat Calcutta on 4.1.1994. By the order dated 12.1.98 he was again ordered for posting at Guwahati, All India Radio and the applicant joined the AIR, Guwahati on 7.4.1998. Both the applicants

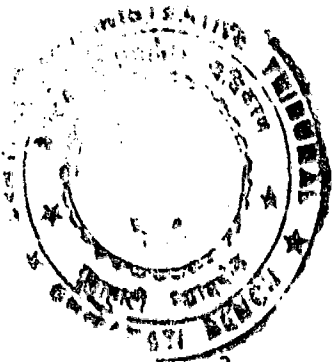
Contd....

after their second stint at North Eastern Region have not been paid SDA as was paid earlier. The applicants submitted representation praying for grant of SDA. By orders dated 18.5.99 and 26.11.99 the respondents turned down their claim. According to the respondents since their transfer and posting was limited to North Eastern Region are not entitled to SDA. The respondents further intimated by the said letter that only those employees who have All India transfer liability on posting to NER are eligible for grant of SDA as per Ministry of Finance, Department of Expenditure O.M. dated 22.7.98. The applicants does not have All India transfer liability as they are transferable only in a particular zone. In the circumstances the claim of the applicants for grant of SDA was turned down by the respondents.

2. Admittedly these two applicants do not belong to North Eastern Region. They belong to Burdwan, West Bengal and come from the state of West Bengal. These two applicants were posted in North Eastern Region from Murshidabad, West Bengal and Ranchi, Bihar. The N.E. Region is indicated in the O.M. dated 14.12.1983 comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura and the then Union Territory of Arunachal Pradesh and Mizoram. The Memorandum granting SDA used the expression attracting and retaining in services. In Union of India Vs. Executive Officer's Association Group C reported in (1995) 29 ATC 517, the Supreme Court observed as follows :

"..... The intention of the Government and spirit behind the office memorandum is to provide an incentive and attraction to the competent officers belonging to a region other than the North Eastern Region to come and serve in the North Eastern Region. It can hardly be disputed that the geographical, climatic, living and food conditions of people living in North Eastern and the States comprising therein are different from other regions of the country. The

North Eastern Region is considered to be "hard zone" for various reasons and it appears that it is for these reasons that the Government provided certain extra allowances, benefits and other facilities to attract competent officers in the North Eastern Region at least for two to three years of tenure posting. The Ministry's Office Memorandum in question came up for consideration before this Court in Chief General Manager (Telecom) v. Rajendra Ch. Bhattacharjee which was decided by us by judgement dated 18.1.1995 in which this Court took this view that the said office memoranda are meant for attracting and retaining the services of competent officers in the North Eastern Region, from other parts of the country and not the person belonging to the region where they were appointed and posted. This was also the view expressed by this Court in yet another case reported in Union of India Vs. Vijaykumar. In Vijaykumar the point for consideration was exactly identical, with regard to the entitlement to Special Duty Allowance to those employees/officers who are residents of North Eastern Region itself. After considering the Memorandum dated 14.12.1983 and other related office memorandums indicated above, it was held that the purpose of the allowance was to attract persons from outside the North Eastern Region to work in the North Eastern Region because of inaccessibility and difficult terrain."



3.

Mr. A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents submitted that these two applicants belong to North Eastern Region and their transfer and posting is always been confined within eastern region including N.E. Region, therefore in the appointment though mentioned All India Transfer Liability but their transfer and posting always confined to Eastern Region. Mr. M. Chanda learned counsel for the applicant on the other hand stated that the terms and conditions shows that they have All India Transfer Liability and that their inter se seniority etc. and promotion are made on the basis of All India Seniority.

④

From the facts enumerated above it is clear that these two applicants have come from outside the N.E. Region and posted in N.E. Region. Their appointment letter carries

②

all India transfer liability. The SDA introduced by the Central Government by the O.M. dated 1.12.83 for the

civilian employees serving in the States and Union Territories of North Eastern Region. Thus the applicants cannot be disentitled SDA solely on the statement of the respondents that the transfer and posting of the applicants is confined to a particular zone.

5. In the circumstances and on consideration on the rival submissions I am of the view that these two applicants are entitled to SDA and the decision of the respondents to deny the benefit of SDA to these applicants are not justified. The respondents are therefore directed to pay SDA to the applicants from the date of their subsequent posting in N.E. Region. The Respondents are also directed to pay the arrear SDA within six months from the date of receipt of a certified copy of this order.

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

SO/VICE CHAIRMAN



Certified to be true Copy
प्रमाणित प्रतिलिपि

*Attested
Secy*

Section Officer (3)
जनसमान अधिकारी (3)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Jawahar Road, Guwahati
जवाहर रोड, गुवाहाटी

in Sd/- (10/11/2001)

HS 10/11/2001

13

Annexure - 2 II

TO

THE STATION DIRECTOR,
ALL INDIA RADIO, GUWAHATI
CHANDMAR, GUWAHATI-3

Dated - 16-04-2001.

(Through proper channel)

SUB:- Arrear payment of Special Duty Allowances
(S.D.A.) w.e.f. 13-10-1997 to 30-11-2000.

REF.- CAT Verdict of Guwahati Bench dated 05-03-
2001 against Application NO.-187 of 2000.

Respected Sir,

Kind attention is invited towards the above mentioned order (enclosed here with) regarding my arrear payment of S.D.A. w.e.f. 13-10-1997 to 30-11-2000.

In this juncture, I would like to mention that I served at AIR Guwahati from 13-10-1997 to 30-11-2000 and I have been transferred to AIR KOLKATA.

Hence, It is requested that necessary action may kindly be taken regarding my S.D.A. Arrear payment at the earliest as above mentioned period.

Thanking you.

Yours faithfully

(Enclosed Xerox copy of
CAT verdict of Guwahati Bench)

Apurba Kumar Ghosh
APURBA KUMAR GHOSH
Senior Engineering Assistant
A.I.R. Kolkata

- Copy to:-
1. The Director General, ALL INDIA RADIO, AKASHVANI BHAVAN, Parliament street, New Delhi-110001, for your kind information.
 2. The Chief Engineer (E/Z), AIR & TV Calcutta for your kind information.
 3. The Deputy Director General (NE/Z) AIR, Guwahati for your kind information.
 4. The Station Director, AIR KOLKATA with a request to forwarding the same letter to Station Director, AIR, GUWAHATI, Director General - A.I.R. New Delhi, Chief Engineer (E/Z) A.I.R. & T.V. Calcutta & Deputy Director General - A.I.R. Guwahati.
 5. The V.P (EZ) - A.R.T.E.E. Kolkata for your kind information.
 6. The V.P (NEZ) - A.R.T.E.E. Guwahati for kind information & necessary action accordingly.
 7. The Unit Secretary A.R.T.E.E. - A.I.R. Guwahati for your kind information & take personal attention for an early payment.
 8. The Unit Secretary A.R.T.E.E. A.I.R. Kolkata for your kind information.

*Attested
for
Director*

(APURBA KUMAR GHOSH)
Senior Engineering Assistant

To
The Station Director,
All India Radio, Guwahati
Chandmari, Guwahati - 3

Date : 09.08.2001
Reminder - 1

(Through proper channel)

Sub: Arrear payment of special duty allowances (SDA) w.e.f 13.10.1997 to 30.11.2000

Ref - CAT verdict of Guwahati Bench dated 05.03.2001 against
Application No- 187 of 2000

Respected Sir,

Kind attention is invited towards my previous letter dated 16.04.2001 regarding the above mentioned subject.

It is requested again that personnel attention may kindly be taken for my SDA arrear payment.

In that juncture I would like to remind you that as per CAT verdict of Guwahati, the arrear payment should be made within six month of the date of verdict. Hence it is requested again that necessary action may kindly be taken for an early payment.

Thanking you.

Yours faithfully

Apurba Kumar Ghosh
(APURBA KUMAR GHOSH)
Senior Engineering Assistant
A.I.R. Kolkata

*Attested
for
Advocate*

Copy to:

1. The Director General, AIR AKASHVANI BHAVAN, Parliament street, New Delhi-1, for your kind information.
2. The Chief Engineer(E/Z), AIR & TV Kolkata for your kind information.
3. The Deputy Director General(NE/Z) AIR, Guwahati for your kind information.
4. The Station Director, AIR Kolkata with a request to forwarding the same letter to Station Director, AIR Guwahati, Director General - AIR New Delhi, Chief Engineer (E/Z) AIR & TV kolkata & Deputy Director General - AIR Guwahati.
5. The V.P (E/Z)- ARTEE Kolkata for your kind information.
6. The V.P(NE/Z)- ARTEE Guwahati for kind information & necessary action accordingly.
7. The Unit Secretary ARTEE- AIR Guwahati for your kind information & take personal attention for an early payment.
8. The Unit Secretary ARTEE AIR Kolkata for your kind information.

(APURBA KUMAR GHOSH)
Senior Engineering Assistant