

( SEE RULE -4 )

GENERAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No : \_\_\_\_\_

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

13/03 in. O.A 188/2000

Applicant (s) Pragjyoti Ch. Jainkdar

-Vs-

Respondent (s) N.O.I. Govt

Advocate for the Applicant (s) Mr. S. Saha, Mrs. U. Das

Advocate for the Respondent(s) K.N. Choudhury  
Case. Mr. R.S. Choudhury

| Notes of the Registry  | Date                         | Order of the Tribunal   |
|--|------------------------------|---|
| This contempt petition has been filed by the Counsel for the applicant praying. drawal of contempt proceeding against the contemners for his willful and deliberate violation of the judgement and order dated 7.2.2002 passed by this Hon'ble Tribunal in O.A 188/2000. | 28.2.2003<br>bb<br>31.3.2003 | Issue notice on the respondents to show cause as to why contempt proceeding as prayed for shall not be initiated against the alleged contemners.<br><br>List on 31.3.2003.<br><br>_____<br>Vice-Chairman  |
| Laid before the Hon'ble court for further orders.  |                              | Mrs. R.S. Choudhury, learned counsel stated that she <del>is</del> has instructed to appear on behalf of the respondents and filing her power. She also prayed for some time to file reply. Prayer is allowed. List on 5.5.2003 for orders.<br><br>_____<br>Vice-Chairman |

Pras  
for Section Officer  
M2

CP. 13/03 (OA 188/2000)

Notice received and  
sent to D/C for issuing the  
respondent No 1. by  
Regd. AID.

5.5.2003

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

DIN. 313 Adm 5/3/03.

No reply has been  
brought.

29/03/03

Heard Mr. S. Sarma, learned counsel  
for the applicant and also Mrs. R.S. Cho-  
udhury, learned counsel appearing for  
the respondents.

Considering the facts situation  
and also upon hearing the learned coun-  
sel for the parties, we are of the opi-  
nion that it is appropriate to close the  
proceeding.

Accordingly the Contempt Proceed-  
ing stands closed.

29.4.03

A complaint letter  
dated 11.4.03 received  
from P.C. Talukdar <sup>which was sent at flight</sup>  
informed this Registry  
that unidentified person  
filed a Contempt petition  
in this Hon'ble Court in his  
name against C.A. 188/2000  
which was disposed of  
T-2.2002. (P.C. Talukdar  
vs. U.O. I Toms)

S. Biswas

Member

h  
Vice-Chairman

Laid before the  
Hon'ble Tribunal for  
further orders.

15/5/03  
Section 11(2)(b)

PP

20.5.2003

Copy of the order has  
been sent to the D/C  
for sending the same to the  
L/Advocates for the parties.

LS

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|                                |
|--------------------------------|
| Central Admin. Trib.           |
| 19 FEB 2002                    |
| संघीय नियमित<br>Guwahati Bench |

Filed by  
the applicant through  
Gulha Das  
Advocate  
19/2/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

13  
CP NO. .... of 2003

In O.A. No. 188 of 2000

BETWEEN

Sri Prafulla Ch. Talukdar ..... Applicant.

-VS-

Union of India & Ors. ..... Respondents.

IN THE MATTER OF

An application under section 17 of the Administrative Tribunal ACT, 1985 for drawal of contempt proceeding against the contemners for his willful and deliberate violation of the judgment and order dated 7.2.2002 passed in OA No. 188/2000.

-AND-

IN THE MATTER OF

An application under Rule 24 of the Central Administrative Tribunal (Procedure) Rule, 1987 implementation of the judgment and order dated 7.2.2002 passed in OA No. 188/2000.

-AND-

IN THE MATTER OF  
Sri Prafulla Chandra Talukdar  
Casual Worker, under the Director,  
ICAR Research Complex, Borapani,  
Meghalaya.

-----Petitioner

-VS-

1. Sri K.M.Buzarbaruah  
The Director ICAR, Research Complex,  
for NEH Region, Borapani,  
Meghalaya.

-----Contemnors

The humble petition on behalf of the petitioner above named.

"MOST RESPECTFULLY SHEWETH".

1. That the above named as applicant in OA No.188/2000, had approached the Hon'ble Tribunal praying for Consideration of his case for grant of temporary status and regularisation as per the scheme. The Hon'ble Tribunal after hearing the parties was pleased to allow the said OA directing the respondents to complete the process of grant at temporary status within a period of 3 months from the date of receipt of the said order.

A copy of the said judgment and order dated 7.2.2002 is annexed herewith and marked as Annexure-1.

2. That on receipt of the copy of the said Annexure-1 judgment, the petitioner through his representation dated 5.3.2002 submitted the same before the contemner. However the contemner did not pass any such order granting him temporary status. Situated thus the petitioner submitted another representation dated 19.6.2002 to the said contemner requesting him to grant him temporary status but till date nothing has been done so far in this matter.

Copies of the said representation are annexed herewith and marked as Annexure-2 and 3.

3. That the contemner above named even after the receipt of the said judgment and order dated 7.2.2002 (Annexure-1) have not implemented the same nor anything has been communicated to the petitioner. the contemner knowing fully well about the contusions of the said (Annexure-1) judgment has not taken any steps to implement the said and as such he is liable to be punished severely for his such willful and deliberate violation of the Hon'ble Tribunal's judgment invoking Section 17 of the Administrative Tribunal Act 1985.

4. That the petitioner begs to state that the judgment and order dated 7.2.2002 is very clear and the contemner should not have delayed the matter in implementing the same more so when the petitioner through his representations submitted the copy of the said judgment. The contemner even have not apprised the Hon'ble Tribunal after expiry of the stipulated period regarding the implementation part and as such he is solely liable to be punished for his willful and deliberate violation of the judgment and order dated 7.2.2002, and an

appropriate direction need be issued to the said contemner to implement the same within the stipulated timeframe invoking Rule 24 of the Central Administrative Tribunal (procedure) Rules, 1987.

5. That this application has been filed bonafide and to secure ends of justice.

AFFIDAVIT

I Sri Prafulla Ch. Talukdar, S/o Late Madhab Ch. Talukdar, aged about 45 years, presently working as Casual labour under the Director, ICAR Research Complex, Umroi Road, Barapani, Meghalaya, do hereby solemnly affirm and state as follows;

1. That I am the petitioner and I am acquainted with the facts and circumstances of the case. I am competent to swear this affidavit.
2. That the statements made in this affidavit and in the accompanying application in paragraphs 3,4,5  
\_\_\_\_\_ are true to my knowledge ; those made in paragraphs 1,2 being matters of records are true to my information derived therefrom. Annexures are true copies of the originals and grounds urged are as per the legal advice.

And I sign this affidavit on this the 18 th day of Feb of 2003.

Identified by me :

Usha Das,  
Advocate

শ্ৰী প্ৰফুল্ল চৌধুৰী

Deponent

Solemnly affirm and state by the deponent who is identified by Miss U. Das, Advocate

Siddhanta Basu

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DRAFT CHARGE

Sri K.M. Buzarbaruah, the Director ICAR, Research Center for N.E.H. Region, Borapani, Meghalaya is liable to be punished for his willful and deliberate violation of the judgment and order dated 7.2.2002 passed in OA NO. 188/2000.

Applied  
By Post

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::::: GUWAHATI.

DESPATCH NO. CAT/GHY/JUDL. / 230

DATED, GUWAHATI THE 14-3

✓ ORIGINAL APPLICATION NO : 188/2002  
MISC. PETITION NO. :  
CONTEMP. PETITION NO. :  
REVIEW APPLICATION NO. :  
TRANSFER APPLICATION NO. :

Shri Prafulla Ch. Talukdar

AAPLICANT(S)

C. O. S. v/s own

VERSUS

RESPONDENTS.

To

Shri Prafulla Ch. Talukdar  
Working as Casual Worker under the  
ICAR Research Complex,  
Barapani,  
Meghalaya

Please find herewith a copy of Judgment/Final Order dated  
7.2.2002 passed by the Bench of this Hon'ble Tribunal comprising  
of Hon'ble Justice Shri D.N. Chowdhury  
Vice-Chairman and Hon'ble Shri K.K. Sharma  
Member, Administrative in the above noted case for information and  
necessary action, if any.

Please acknowledge receipt of the same.

Enclo : As stated above. Affected

W.S. Roy  
Advocate.

BY ORDER

SN 3rd April 2002

SECTION OFFICER (J).

26/2/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.188 of 2000

Date of decision: This the 7th day of February 2002

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

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

Shri Prafulla Chandra Talukdar,  
 Working as Casual Worker under the  
 ICAR Research Complex,  
 Barapani, Meghalaya.

.....Applicant

By Advocates 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 Agriculture, New Delhi.
2. The Director General, Indian Council of Agricultural Research (ICAR), New Delhi.
3. The Director, Indian Council of Agricultural Research (ICAR), ICAR Research Complex for N.E.H. Region, Barapani, Meghalaya.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,  
 Mr K.N. Choudhury and Mr B.C. Das.

.....

O R D E R (ORAL)

**BENCH**  
CHOWDHURY, J. (V.C.)

Conferment of temporary status and regularisation of casual workers in terms of the guidelines issued vide O.M. dated 7.6.1988 followed by like O.M.s is the subject matter for adjudication that has come up again for consideration in this Tribunal.

2. The applicant moved this Tribunal by way of an application seeking for a direction on the respondents for conferment of temporary status with effect from 1.9.1993 under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 1993 for regularisation of his service in a Group 'D' post and for continuance of his

*Advocate.*

service. The said application was numbered and registered as O.A.No.90 of 1997. In the aforementioned O.A. it was asserted by the applicant that he was engaged as casual labourer under the Director of Indian Council of Agricultural Research (ICAR for short) since 1983 till presentation of the O.A. and since he fulfilled the eligibility conditions, he was also entitled for being considered for grant of temporary status and therefore sought for a direction from the Tribunal. The respondents in the said O.A. entered appearance and submitted their written statement denying the claim of the applicant. The Tribunal on assessment of the materials on record directed the respondents to consider and dispose of the representation of the applicant and to pass a reasoned order thereon. The operative part of the judgment is reproduced below:

"I have heard learned counsel of both sides. In view of the dispute about the facts of the engagements of the applicant the respondents were directed by order dated 27.5.1998 in Misc. Petition No.56/98 to produce payment Register of casual workers of the Farm Manager, ICAR Research Complex upto 1993. The order was issued in the presence of the then Sr. C.G.S.C. Mr S. Ali and Mr S. Sarma, counsel for the applicant. Opportunities to produce records were granted however the records were not produced till the last date of hearing and no one appeared for the respondents. An adverse inference can therefore be drawn that the statement of the respondents to the effect that the applicant was not engaged as casual labourer in their organisation is false. However, such inference is not drawn at present. On the other hand an opportunity is granted to the Director, ICAR, respondent No.3 to dispose of the representation submitted by the applicant dated 11.12.1997, Annexure-3C after due enquiry into the records and the facts and after hearing the applicant personally. Shri J.K. Bharali, Manager, Operation and Maintenance Cell had clearly stated in two certificates that the applicant was working in his Division. Similarly, Shri D. Medhi, programme Officer in his certificate dated 3.2.1998 had issued certificate that the applicant was working as casual Carpenters in the Division of Operation and Maintenance Cell as on 1.1.1993. Such certificates could not have been issued without any basis by the officers. Therefore, while disposing of the representation the respondent No.3 shall inquire into the facts on the basis of which the certificates were issued and also into the cases of other casual employees who were granted temporary status on the basis of certificates issued by the Managers concerned and particularly, the case of the applicants in O.A.No.40/94. The respondent No.3 shall thereafter communicate a speaking order to the applicant within 3 months from the date of receipt of this order. The applicant may also submit a fresh representation stating his grievances,

if.....

Attee:  
W.D.A.  
Advocate

(2)

if he desires, to the respondent No.3 within 20 days from today and if such representation is received, the respondent No.3 shall take the fresh representation into consideration. If the applicant is still aggrieved he may approach this Tribunal again."

The Director by the impugned order dated 20.12.1999 passed the cryptic order rejecting the representation of the applicant. Hence this application assailing the legality and validity of the order dated 20.12.1999.

3. The respondents submitted written statement and took the same plea as was earlier in its written statement in O.A.No.90/1997.

4. We have heard Mr S. Sarma, learned counsel for the applicant and Mr B.C. Das, learned counsel for the respondents at length. In the impugned Office Order dated 20.12.1999 the Director, ICAR referred to the judgment of the Tribunal dated 9.6.1999 in O.A. No.90/1997, the representation of the applicant dated 2.7.1999 and thereafter he concluded that the representation for grant of temporary status could not be acceded to as he did not fulfil the necessary requirement for grant of temporary status. The order itself indicated that he did not address those aspects of the matter which were specifically directed to be addressed by this Tribunal. In the order dated 9.6.1999 in O.A.No.90/1997 the Tribunal referred to the two certificates issued by Shri J.K. Bharali, Manager, Operation and Maintenance Cell and the certificate issued by Shri D. Medhi, Programme Officer who vouchsafed in writing that the applicant rendered the necessary service under the respondents as on 1.1.1993. The Tribunal expressed that such certificates would not have been issued without any basis by the officers concerned. The judgment of the Tribunal also indicated its displeasure for not making available the records though time was granted to the respondents. When best evidence was not made available, it was open for the Tribunal to draw an adverse inference and the Tribunal indicated the same in the judgment and order in O.A.No.90/1997. The authority was granted an

opportunity.....

Attested  
W.D.  
Advocate.

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opportunity to look into it and pass an order. The respondent No.3 in a most casual fashion rejected the application without taking proper note of the judgment rendered by the Tribunal. The respondents in their written statement referred to some inter-departmental communications. One such communication was that of the Senior Farm Manager, Shri N.R. Roy, dated 6.8.1999. The said communication only refers to the judgment of the Tribunal and the communication dated 4.8.1999 from the Manager, Legal Cell. On what basis the Farm Manager communicated the same is not made available to us. At any rate, the respondents, despite opportunity granted could not produce the records to show and justify the grounds. As stated earlier the Director passed the order on 20.12.1999 by rejecting the applicant's representation. It appears that after institution of the application, assailing the action of the respondents, a committee was constituted on 7.9.2001. The authority referred to the minutes of the committee, Annexure I to the written statement, wherein it referred to two communications sent by Shri J.K. Bharali and Shri D. Medhi, obtained from those officers after disposal of O.A.No.90/1997 by the Tribunal by its order dated 9.6.1999. The committee referred to the certificates and further clarification from Shri Bharali and Shri Medhi dated 20.12.1999 and 16.8.1999. The contents of the clarifications of Shri Bharali and Shri Medhi are reproduced below:

"I have already submitted the report that Shri P.C. Talukdar was engaged under contract in my section and not on Muster Roll. However, the certificate was given by me was not proper as head of Institution (Director) is only competent to issue the certificate. Therefore, the certificate given by me was not in proper and it is Director to issue the certificate not myself.

Sd/- J.K. Bharali  
20.12.99"

"The certificate was issued on dated 3.2.98 due to heavy pressure from Shri Prafulla Ch. Talukdar. I had never certified his Muster Roll bills and never maintained his attendance.

Sd/- D. Medhi  
Programme Officer  
dtd. 16.8.99"

Attested  
U.P.S.  
Advocates.

5. Admittedly, the aforementioned certificates were obtained by the respondents after disposal of O.A.No.90/1997 by the Tribunal by order dated 9.6.1999, wherein the Tribunal took note of it and observed that such certificates could not have been issued by the officers concerned. It seems that the respondents sought to wriggle out of the situation by obtaining further endorsement from the officers that those certificates were issued casually. The judgment of the Tribunal was never challenged and therefore, the finding of the Tribunal has attained finality. The Tribunal never directed to act in the manner the respondents acted. The Tribunal only ordered that while disposing of the representation of the applicant, the respondent authority was to enquire into the facts on the basis of which the certificates were issued and also into the cases of other casual employees who were granted temporary status on the basis of certificates issued by the Managers concerned and particularly the case of the applicants in O.A.No.40/1994.

6. The committee did not dispute the fact that the applicant worked under the respondents. The committee in its own finding even stated that the services of Shri P.C. Talukdar was obtained for research work through contract labour. How this contract labour came in was never explained. We granted time to the respondents to produce the records including the records maintained for contract labourers. After the decision rendered by the Supreme Court in Surinder Singh Vs. Engineer-in-Chief, CPWD, reported in (1986) 1 SCC 639, the Central Government introduced numerous schemes for recruitment of casual labourers and daily wage earners.

7. Mr B.C. Das, learned counsel for the respondents, referred to the communication dated 10.12.1992 issued by the Senior Farm Manager about the existence of the casual labourers. Mr Das submitted that in the list the name of the applicant did not appear. Admittedly, the said list was of December 1992. The said list is not exhaustive as will appear from the order No.R.C(G)25/95 dated 9.1.2002, whereby

Attn: *W.D.*  
*Advocate.*

the.....

13 -

the respondent authority granted temporary status to one Man Mohan Thakur, Casual Labourer with effect from 1.9.1993. It was mentioned that he was to work under the Senior Farm Manager. The list referred to by Mr B.C. Das did not disclose the name of Shri Man Mohan Thakur. Be that as it may, on the own finding of the committee the applicant worked under the respondents, but according to them he worked through contract labour. In the absence of any record it is difficult to accept the plea that he worked under any independent contractor appointed in conformity with the Contract Labour Regulations. The respondents, despite opportunities, did not produce any record. In the circumstances we hold that the applicant worked under the respondents as a casual labourer and therefore, his services need to be computed for the purpose of conferment of temporary status. The respondents are accordingly directed to consider the matter in the light of the observations made above and pass an appropriate order in the light of the Scheme and complete the exercise within three months from the date of receipt of the order.

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Admn)

TRUE COPY

nkm

Attn:   
 N.K. Mohapatra  
 Admn. Secy.

Sd/ N.K. Mohapatra

To

- 16 -

ANNEXURE - 2

The Director,  
ICAR Research Complex for NEH Region,  
Umroi Road, Umiam.

Sub:- Regularisation as temporary status Mazdoor w.e.f.  
1.9.93 as per Hon'ble CAT, Guwahati Branch Order in  
O.A. No.188 of 2000.

Sir,

I am to refer to the decision of the Hon'ble CAT,  
Guwahati Branch vide their order in clause No.7 of their  
O.A. No.188 of 2000 dated 7.2.02 (copy enclosed) to compute  
my services for purpose of confirming me as temporary status  
Mazdoor and to request you to kindly issue necessary appoint-  
ment Order appointing me as temporary Mazdoor w.e.f. 1.9.93  
for which act of your kindness I shall remain ever grateful  
to you.

Dated, Barapani 20.2.02.

Yours faithfully,

*P.C.Talukdar*  
( P.C.Talukdar )  
Casual Worker.

*01-5/3/02*

*Recd a/fas*  
*Mr. 5/3/02*

*Adv.*  
*Advocate*

To

The Director,  
ICAR Research Complex for NEH Region,  
Umiam.

Sub:- Request for Appointment as T.S.M in the ICAR Research Complex for NEH Region, Umiam.

Sir,

I have the honour to inform you that I was working as a labour in your Organisation for last 20 years, but I was not regularised as T.S.M, though most of the labourers working with me were appointed with the verdict Hon'ble Court, the reason of which is not known to me. I approached twice the Hon'ble C.A.T., Guwahati Bench and both the Verdicts were in my favour and accordingly I approached the authority to appoint me as T.S.M, but nothing has been heard from your office till date.

I am a poor man having two school going children and there is no other source of my income. I, therefore, request you to kindly consider my case of appointment as T.S.M. immediately so that I with my family members could survive without financial hardship. I shall remain ever grateful to you if my appointment is considered on the basis of the verdicts of Hon'ble C.A.T. Guwahati Bench immediately.

Thanking you,

Yours faithfully,

( P.C. Talukdar )

19.6.04

....

Attn: P.C.  
Umiam  
Advocate