

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No: - \_\_\_\_\_/

Misc Petition No: \_\_\_\_\_/

Contempt Petition No: 60/03 (OA 226/2000)

Review Application No: \_\_\_\_\_/

Name of the Appellant(s): Md. Azhar Ali & Others

Name of the Respondant(s): Col. Binay Kumar & Others.

Advocate for the Appellant:- Mr. Rajeswar Sarma,  
Mr. A. Rahman.

Advocate for the Respondant:-

Notes of the Registry	date	Order of the Tribunal
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This Contempt Petition has been filed under Sec 12 of the Contempt of Courts Act, 1971 read with Sec. 17 of the Administrative Tribunal Act, 1985 of the contempt of Courts (CAT) Rules 1992 for contempt proceeding and punishment to the Respondent.

Laid before Hon'ble Court for orders.

*[Signature]*  
22-12-03  
Section Officer (I)

Steps taken.

Issue notice as per Court's order dated 23.12.03.

*[Signature]*  
26-12-03

23.12.03

pg

27.2.2004

Let a copy of this application be served on the alleged contemnors by registered post with A/D and the matter shall thereafter appear before the next available Bench for order.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

Present: Hon'ble Shri Shanker Raju,  
Judicial Member

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

None for the parties.  
Reply has also not been filed.  
List on 16.3.04.

*[Signature]*  
Member(A)

*[Signature]*  
Member(J)

nkm

(2)

C.P.No.60/2003

(O.A.No.228/2000)

Notice & order dt-23/12/03,  
Sent to D/section for  
issuing to respondent  
nos 1 to 4.

16.3.2004

Await service report. List  
on 2.4.2004.

*[Signature]*  
Member (A)

bb

No. reply has been 2.4.2004  
filed.

Present: Hon'ble Shri Kuldip Singh,  
Judicial Member

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

*[Signature]*  
25.3.04

Notice of the Contempt Petition has  
not yet been issued. Fresh notices be  
issued to the alleged contemnors and the  
matter may be listed before the next  
available Division Bench.

Notice issued vide  
NO- 72-75 dated  
13-1-04.

NL

*[Signature]*  
Member (A)

*[Signature]*  
Member (J)

nkm

15.6.04

Present: The Hon'ble Mrs. Bharati  
Roy, Judicial Member and Mr. K.V.  
Prahladan, Administrative Member,

The learned counsel for the  
applicant prays for adjournment  
on the ground that none appears  
for the alleged contemnors.

The matter be posted before the  
next Division Bench.

*[Signature]*  
Member (A)

*[Signature]*  
Member (J)

lm.

20.7.04

Present: The Hon'ble Mr. K.V. Sachin-  
dan, Judicial Member  
The Hon'ble Mr. K.V. Prahladan  
Administrative Member.

When the matter came up for  
hearing the learned counsel for the  
applicant submitted that she has  
received the copy of the reply today.

13/7/04  
Reply has been filed  
by the contemnors NO.3.

*[Signature]*  
13/7/04

20.7.04. None for the parties. Let this case be posted on 22.7.04 for orders.

  
Member(A)

  
Member(J)

lm

22.07.2004. Present : The Hon'ble Sri K.V. Sachidanandan, Member (J).

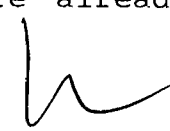
The Hon'ble Sri K.V. Prahladan, Member(A).

When the matter came up for hearing, the learned counsel for the Respondents brought attention to this Tribunal of paragraphs 4 and 5 of the reply statement which is as follows:-

"4. The deponent respectfully submits that the petitioners No.1 (Md. Azhar Ali), No. 4 (Shri Mahesh Chandra Das), No. 5 (Sri Hari Chandra Das) and No. 6 (Shri Ramesh Sharma) were appointed to grade of CMD(OG) by way of promotion vide letter No. 81620/2/MTD/903/FIC(2) dated 30.12.2003 as amended vide No. 81620/2/MTD/913/FIC(2) dated 22.1.04 and letter No. 81620/2/MTD/955/FIC(2) dated Feb. 2004 in compliance of the Judgment and Order dated 2.4.2001.

5. The deponent begs to state that the case of other two petitioners (No. 2 Md. Eschar Ali and No. 3 Md. Salemuddin Khan) is under process of finalisation and will be materialised very soon only on copliance of required formalities by the petitioners."

The learned counsel for the applicant submitted that he has no instructions from the applicants whether they are already appointed or not. The

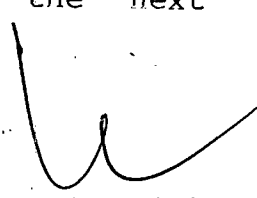
  
Contd/-

Contd/-

22.07.2004 learned counsel for the applicant is directed to take specific instruction from the applicants by the next time and report the Court.

List before the next Division Bench.

  
Member (A)

  
member (J)

mb

23.8.04

Heard learned counsel for the parties.

On the prayer of learned counsel for the petitioner the case is adjourned to 25.8.04 for orders.

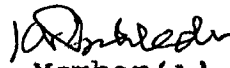
  
Member

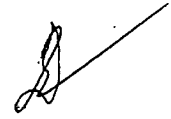
  
Vice-Chairman

lm

25.8.04

Heard counsel for the parties. As per order recorded separately the C.P. is disposed of.

  
Member (A)

  
Vice-Chairman

pg

No. 4.  
Received

29/07/04

dt. 30-7-04  
(APPLICANT)

9.9.04

Copy of the Judgt. has been sent to the Dfcee. for Enquiry. The same to applicant as well as to the L.C.G.S.C. for the Report.

Y.S.  
my 10/9

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
Contempt Petition  
D.XX/R.A.No. 1111 60/2003 (O.A.226/2000)

DATE OF DECISION 25-8-2004.

Md Azhar Ali & 5 others.

.....APPLICANT(S).

Sri R. Sharma

.....ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS-

~~Union of India~~ Col.Binay Kumar & 3 ors.

.....RESPONDENT(S)

Sri A.Deb Roy, Sr.C.G.S.C.


.....ADVOCATE FOR THE  
RESPONDENT(S).

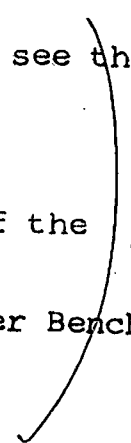
THE HON'BLE MR. D.C.VERMA, VICE ~~XX~~ CHAIRMAN

THE HON'BLE MR K.V.PRAHLADAN, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Member Vice-Chairman





CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No.60 of 2003 (In O.A.226/2000)

Date of Order : This the 25th Day of August, 2004.

The Hon'ble Shri D.C.Verma, Vice-Chairman.

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

1. Md Azhar Ali,
2. Md Esahar Ali,
3. Md Salimuddin Khan,
4. Sri Mahesh Chandra Das
5. Sri Hari Chandra Das and
6. Sri Rameshwar Sharma . . . Applicants.

All the applicants are employed in the office of the Garrison Engineer, Satgaon, Narengi, Guwahati

By Advocate Sri R.Sharma.

- Versus -

1. Col. Binay Kumar,  
Chief Engineer,  
HQ, Eastern Command, Fort William,  
Kolkata-21.
2. Brigadier S.S.Grewal,  
Chief Engineer, Spread Eagle Falls,  
Shillong Zone, Shillong-11.
3. Shri V.D. Khar, AO-II  
Commandar Works Engineer,  
Spread Eagle Falls,  
Shillong Zone, Shillong-11.
4. Lt. Col. K.L.Bachani,  
Garrison Engineer,  
583 Engineer Park, Satgaon,  
Narengi, Guwahati. . . . Respondents

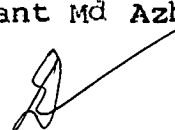
By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

D.C.VERMA (V.C)

Six applicants have filed this petition for contempt against the respondents for non compliance of the Tribunal's order dated 2.4.2001 passed in O.A.226/2000. This petition was filed on 22.12.2003.

2. After the C.P. was filed the respondents have by order dated 30.12.2003, 22.1.04 and February 2004, as mentioned in para 4 of the reply, complied with the direction of the Tribunal in respect of applicant Md Azhar Ali, Mahesh Chandra



X

Das, Hari Chandra Das and Rameshwar Sharma. The non compliance presently is in respect of applicant Esahar Ali and Md. Salimuddin Khan.


3. Learned counsel for the applicant submitted that vide communication dated 13.8.03 the two applicants, namely, Esahar Ali and Salimuddin Khan also found eligible for appearing the Trade Test for CMD(OT) to be conducted by CWE (AF) Borjhar. Vide communication dated 30.8.03 both the applicants have been declared qualified in the Trade Test of CMD(OG) conducted by CWE(A/F) Borjhar on 25.7.2003. The learned counsel for the applicant submits that no order has been issued by the respondents promoting the above two applicants to the grade of CMD(OG). Learned counsel for the respondents, on the other hand with reference to para 5 of the reply, submitted that in respect of these two applicants the matter is under process of finalisation and the same will be decided very soon on completion of required formalities by the petitioners. It is noted that though by Annexure-L communication dated 30.8.03 these two applicants were found qualified in trade test but orders in respect of these applicants have not been passed on the pretext of completion of formalities, what formalities are required to be completed or made by the applicants are not spelt out in the reply. The respondents should have complied with the direction as the same was required to be done within six months from the date of order as no time limit was given in the Tribunal's order dated 2.4.2001.

4. Considering the facts and circumstances of the case with these two applicants as they have cleared the trade test and the respondents are now processing the matter in respect of Md Esahar Ali and Salimuddin Khan the C.P. is disposed of with a direction to the respondents to complete the formalities and pass an <sup>appropriate</sup> order within a period of two months from



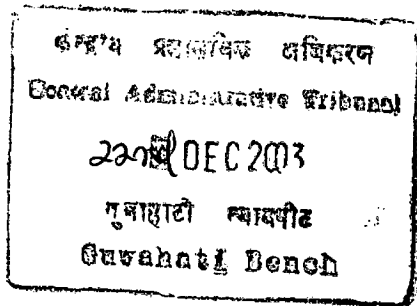
the date of receipt of this order.

Contempt petition stands disposed of accordingly.

  
( K.V. PRAHLADAN )  
ADMINISTRATIVE MEMBER

  
( D.C. VERMA )  
VICE CHAIRMAN





BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Contempt Petition (Civil) No. 60 of 2003

CA 226/2000

- Between -

Md. Azhar Ali & Others ..... Petitioners

- Versus -

~~xxxx~~ Col. Binay Kumar & Others ... Respondents

Name of Counsels for petitioners : Sri Rajeswar Sarma  
Md. Azizur Rahman

Name of Counsel for Respondent :

Subject ( No. ) Department ( No. )

Filed by : -

*Rajeswar Sarma*  
(Rajeswar Sarma)  
Advocate

18 December 2003

Azeboz Ali  
Filed 67 10  
Aghor Ali  
through  
Bijoy Rabmon  
Advocate  
Date - 19-12-03

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL:::

GUWAHATI BENCH : GUWAHATI

Contempt Petition(Civil) No. /2003

IN THE MATTER OF :

An application Under Section 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunal Act, 1985 read with Section 7 of the Contempt of Courts (CAT) Rules 1992 for drawing initiation of a Contempt Proceeding and punishment to the Respondent.

- And -

IN THE MATTER OF :

Wilful disobedience and violation of order (Oral) dated 2.4.2001 in Original Application No.226 of 2000 passed by this Hon'ble Tribunal.

- And -

IN THE MATTER OF :

Order dated 1.2.2002 in W.P.(C) No. 539 of 2002 passed by the Hon'ble Gauhati High Court.

- And -

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IN THE MATTER OF :

Order dated 23.7.2002 in Misc. Case  
No.669 of 2002 arising out of W.P.(C)  
No. 539 of 2002 passed by the Hon'ble  
High Court.

- And -

IN THE MATTER OF :

Order dated 19.5.2003 passed in O.A. No.99  
of 2003 by the Hon'ble Tribunal.

- And -

IN THE MATTER OF :

1. Md. Azhar Ali ( MES-225678 ),  
Son of Md. Taher Ali,  
Office of Garrison Engineer,  
Satgaon Narengi, Guwahati.
2. Md. Esahar Ali (MES-225533 )  
Son of Md. Ibrahim Ali,  
Office of No. 583 Engineer Park,  
Garrison Engineer, Satgaon,  
Narengi, Guwahati.
3. Md. Salimuddin Khan, (MES- 225583)  
Son of Late Abdul Khan,  
Office of No. 583 Engineer Park,  
Garrison Engineer, Satgaon,  
Narengi, Guwahati.

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4. Sri Mahesh Chandra Das (MES-22540),  
Son of Late Sundar Chandra Das,  
Office of Garrison Engineer,  
Satgaon, Narengi, Guwahati.
5. Sri Hari Chandra Das (MES-225719 ),  
Son of Sri Madhu Ram Das,  
Office of Garrison Engineer,  
Satgaon, Narengi, Guwahati.
6. Sri Rameshwar Sharma (MES - 225708),  
Son of Sinanati Sharma,  
Office of Garrison Engineer,  
Satgaon, Narengi, Guwahati.

.... Petitioners

- Versus -

1. Col. Binay Kumar  
Chief Engineer,  
HQ, Eastern Command, Fort William,  
Kolkata- 21.
2. Brigadier S.S. Grewal,  
Chief Engineer, Spread Eagle Falls,  
Shillong Zone, Shillong- 11.
3. Shri V.D. Khar, AO-II  
Commandar Works Engineer,  
Spread Eagle Falls,  
Shillong Zone, Shillong- 11.
4. Lt. Col. K.L. Bachani,  
Garrison Engineer,  
583 Engineer, Park, Satgaon,  
Narengi, Guwahati.

... Respondents.

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The humble petition of the  
petitioners above named -

MOST RESPECTFULLY SHEWETH :

1. That, the petitioners filed an application under Section 19 of the Administrative Tribunal Act, 1985 before this Hon'ble Tribunal being Original Application No.226 of 2000 seeking reliefs for regularisation of their services in the posts of Mechanical Transport Drivers with effect from the date of extraction of services as Mechanical Transport Drivers in Military Engineer Service and payment in the regular scale of pay in the post of Mechanical Transport Drivers with effect from extraction of services as M. T. Drivers in Military Engineer Service and payment of arrears of payment in the posts of M T Drivers with retrospective effect.

2. That the petitioners state that the Respondents entered appearance, filed written statement and contested the case and upon hearing the parties the Hon'ble Tribunal passed the Order (Oral) on 2.4.2001 in O.A. No.226 of 2000 directing the respondents that this is a case in which the respondents are required to reconsider the matter afresh for absorbing these applicants as M T Driver against available vacancies as well as against the future vacancies subject to their seniority. The respondents while considering the case of the applicants for absorbing them as M T Driver should also consider if necessary to relax the age taking note of the fact that those applicants

contd...p/5

9 Ali

have been continuously rendering their services as Drivers since the date of their entry into service and take note of the fact that those applicants are departmental candidates and therefore, their age should be taken note of considering their initial entry as casual Mazdoors. The Hon'ble Tribunal is of the view that to fulfil the constitutional duty and as a model employer, the respondents should take necessary steps for providing them the promotional benefit as M T Driver considering the fact that they have continuously rendered service with the respondents as M T Driver. The respondents shall take all possible steps to remove the grievances of the applicants with utmost expedience.

A copy of order (oral) dated 2.4.2001 passed in O A No.226 of 2000 is annexed herewith and is marked as Annexure - A.

3. That the petitioners have applied for certified copy of the order dated 2.4.2001 in O.A. No. 226 of 2000 and on obtaining the certified copy of the same submitted on 5.5.2001 before all the respondents including the respondent in this contempt petition by registered post with acknowledgement due and the petitioners submitted the application alongwith certified copy of order dated 2.4.2001 praying for regularisation of their services with effect from the date of discharging duties in the posts of M T Drivers and arrears salary and future payment be made in the scale of Rs. 3050-75-3950-80-4590 per month with

( 6 )

retrospective effect.

A copy of application dated 5.5.2001 is annexed herewith and is marked as Annexure - B.

4. That the petitioners state that the petitioners sent the certified copy of order (oral) dated 2.4.2001 in O.A. No.226 of 2000 and an application prayed for regularisation of their services in the post of M T Drivers by registered post with acknowledgement due and the respondents received the copies of the same which were duly acknowledged by the respondents.

Copies of postal receipts and Acknowledgement receipts are enclosed herewith and is marked as Annexure- C Series.

5. That the petitioners state that the respondents challenged the order dated 2.4.2001 in O.A. No.226 of 2000 passed by this Hon'ble Tribunal before the Hon'ble High Court being W.P.(C) No. 539 of 2002 and upon motion hearing on 1-2-2002, the Hon'ble Court dismissed the Writ Petition and thereby the respondents took four months time to implement the order passed on 2-4-2001 and accordingly the Hon'ble Court granted 4 months time for implementation of order passed on 2-4-2001 in O.A. No.226 of 2000.

A copy of Order dated 1-2-2002 in W.P.(C) No.539 of 2002 is annexed herewith and is marked as Annexure- D.

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6. That the petitioners state that the Commander Works Engineer, S.E. Falls, Shillong-11 communicated the Chief Engineer formations of Guwahati/Narengi Complex under the Administrative Control of Commander Works Engineer are having deficiency of 08 numbers of Civilian Motor Driver (CMD) against the posted strength. The respondents further communicated that in order to ensure implementation of Hon'ble Central Administrative Tribunal/High Court Judgment, the applicants numbering 06 in O.A. number 226/2000 can be accommodated by O.A. of providing appointment on posting wherever applicable through recruitment against the existing vacancies of 8 numbers of C.M.D.

A copy of letter dated 22.3.2002 issued by Commander Works Engineer, Shillong is annexed hereto and is marked as Annexure- E.

7. That the petitioners state that the Chief Engineer, Shillong Zone, Shillong-11 communicated on 27-3-2002 that 08 numbers of regular sanction posts of Civilian Motor Driver (CMD) are lying vacant in Garrison Engineer, Narengi, Garrison Engineer, Guwahati and Garrison Engineer, 583 Engineer Park. It may be stated that the petitioners are discharging their duties and liabilities in the post of CMD against those regular sanctioned post since a long spell of time and the ~~xxx~~ petitioners have not been paid their regular times scale of pay in the post of CMD which is illegal, unfair, unreasonable, arbitrary, unconstitutional and in complete violation of principle of natural justice.

A copy of letter dated 27-3-2002 issued by the Chief Engineer, Shillong-11 is annexed hereto and is marked as Annexure-F.



8. That the petitioners state that the respondents filed a Misc. Case No. 669 of 2002 in W.P.(C) No. 539 of 2002 before the Hon'ble High Court praying for implementation of order passed by the Hon'ble Court and accordingly need some more time to implement the order and the Hon'ble High Court upon hearing extended the period by four months with effect from 23.7.2002 for implementation of the order.

A copy of order dated 23-7-2002 in Misc. Case No. 669 of 2002 in W.P.(C) No.539 of 2002 is annexed hereto and is marked as Annexure- G.

9. That the applicants state that the Additional Chief Engineer (Works) issued a communication under Memo No.70222/OA.226/2000/Legal/61/E 1 dated 03-10-2002 to the petitioners that the judgment dated 2.4.2001 in O.A. No. 226 of 2000 passed by the Hon'ble Tribunal stands implemented. The petitioners state that nothing has been implemented in view of the Hon'ble Tribunal passed order on 2.4.2001 and therefore the communication passed on 03-10-2002 is unreasonable, arbitrary, unfair, illegal and in complete violation of the principles of natural justice.

A copy of communication letter dated 03.10.2002 ~~XXXXXXXXXX~~ communicated by the Additional Chief Engineer(Works) is annexed hereto and is marked as Annexure- H.

10. That the petitioners state that the learned counsel for the petitioners sent a notice on 13.11.2002 for implementation of order dated 2-4-2001 in O.A. No.226 of 2000 by letter and spirit in regularisation of their

services with effect from the date of discharge in the post of MT Drivers and arrears payment from the said date till date in the post of MT Drivers and future payments in the scale of MT Drivers may be paid regularly and the said notice has been duly received and acknowledged by the respondents and the same have not been implemented till date.

A copy of notice dated 13.11.2002 is annexed hereto and is marked as Annexure-I.

11. That the petitioners state that they came to know that the order dated 2.4.2001 passed in O.A. No.226 of 2000 by this Hon'ble Tribunal has also been communicated to the respondents including this present respondent in this contempt petition through the Administrative Department of the office of the Hon'ble Tribunal. But till date no action has been taken and initiated for regularisation of services of the petitioners in the post of M T Drivers by the respondents.

12. That the petitioners state that the Chief Engineer, Headquarter , Eastern Command Kolkata communicated to the Director General ( Personal ) at MES, New Delhi under Memo No. 131515/2A/617/Engrs/EIC/(2) dated 19.7.2003 that out of 3 vacancies of MTD released 2 vacancies have been allotted for direct recruitment from among the petitioners for implementation of the CAT Judgment and the same have not been implemented till date.

A copy of communication dated 19.7.2003 is annexed hereto and is marked as Annexure-J.

13. That the petitioners state that the Commandar, Works Engineer, Shillong, communicated under Memo No.1151/OA-226/2000/232 dated 13.8.2003 to Head Quarter Chief Engineer, Shillong that the petitioners fulfilled the criteria for promotion to Civilian Motor Driver (Ordinary Grade) which is to be done in accordance with judgment of the Hon'ble Tribunal and speaking order issued by the Headquarter and inspite of that the Respondent Contemnors have not implemented the same and as such they are liable to be initiated by Contempt of Courts Act and be punished under the provision of law.

A copy of communication dated 13.8.2003 communicated by C.W.E., Shillong in annexed hereto and is marked as Annexure -K.

14. That the petitioners state that the Garrison Engineer, 583 Engineer Park communicated under Communication No. 1306/B/150/BTA dated 30th August 2003 to C.W.E., Shillong stating that one of the petitioners namely Md. Salimuddin Khan has qualified the trade test of C.M.D.(O.G.) conducted by C.W.E. (A.F.) Borjhar on 25.7.2003. It may be stated that inspite of passing the trade test examination and discharging duties of civilian driver since 1983 the respondent authorities have not promoted the petitioners as Civilian Motor Driver and as such the respondents have willingly and intentionally neglected the judgment and order passed by the Hon'ble Tribunal.

A copy of communication dated 30.8.2003 is annexed hereto and is marked as Annexure-L.

(11 )

15. That the petitioners state that they approached several times in different occasions before the respondents since 5.5.2001 till date praying for regularisation of their services in the post of MT Driver and payment of salary in the post of M T Drivers but no action has been taken by the respondents to regularise the services of the petitioners.

16. That the petitioners state that the respondents has not taken any steps to remove the grievances of the petitioners with utmost expedience and the respondents have not taken any steps for providing them the promotional benefit as M. T. Drivers considering the fact that they have continuously rendered services with the Respondents as M.T. Drivers.

17. That the petitioners state that the effect and content of the Hon'ble Tribunal's order dated 2.4.2001 in O.A. No.226/2000 is absolutely clear and unambiguous and the present respondents and other respondents in O.A. No.226 of 2000 are fully aware of the order passed by the Hon'ble Tribunal. The petitioners further state that the action of the respondents in not complying with the aforesaid order of the Hon'ble Tribunal is deliberate, intentional, wilful and clearly amounts to Contempt of Courts Act, 1971. The respondents by their action have rendered themselves liable for the punishment under Section 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunal Act, 1985.

contd...p/12

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18. That the petitioners state that the facts and circumstances of the aforesaid action of the respondents in failing to comply of the Hon'ble Tribunal's order shown a considerable disregard in the fairness and justice by person who is holding senior defence post in India reveals a sad commentry.

19. That, the petitioners state that the refusal of the respondents to give effect to the order of the Hon'ble Tribunal is deligerate, wilful and intentional and the power of Magistracy, prestige and dignity of the Hon'ble Court has been seriously undermined by the impugned refusal of the respondents. The petitioners filed a application being O.A.No.99/2003 and the same was withdrawn on 19-5-2003 with a liberty to file appropriate application.

20. That the petitioners state and submit that it is a fit case to initiate a contempt proceeding by this Hon'ble Tribunal against the respondent for wilful disobedience and violation of the order passed on 2-4-2001 in O.A. No.226 of 2000 by this Hon'ble Tribunal.

21. That this application is made bonafide and in the interest of justice.

In the premises aforesaid, it is most respectfully prayed that Your Lordships would be graciously pleased to admit this application, issue notice on the Respondents to show cause as to why a contempt proceeding should not be initiated against the respondents

( 13 )

and to show cause as to why ~~they~~ they should not be punished under Section 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunal Act, 1985 read with Section 7 of the Contempt of Courts (CAT) Rules, 1992 for wilful violation and disobedience of the order dated 2.4.2001 passed by this Hon'ble Tribunal in O.A. No.226 of 2000 and further be pleased to issue notice to the respondents to personally appear before this Hon'ble Tribunal and on hearing the parties be pleased to punish the respondents and/or be pleased to pass any such further or other order or orders as Your Lordships may deem fit and proper.

And for this the petitioners as in duty bound, shall ever pray.

Affidavit.....

A. K. L.



( 14 )

A F F I D A V I T

I, Md. Azahar Ali, aged about 37 years, Son of Md. Taher Ali, a Muslim faith, by profession : Service, Office of Garrison Engineer, Satgaon, Narengi, Guwahati in the district of Kamrup, Assam do hereby solemnly affirm and declare as follows :-

1) That , I am one of the petitioners of the accompanying petition and as such I am fully acquainted with the facts and circumstances of the case. I am authorised to swear this affidavit on behalf of other petitioners mentioned in the petition.

This is true to my knowledge.

2) That the statements made in paragraphs 1, 11, 15, 16, 17 and 18 are true to my knowledge and rests are my humble submission before this Hon'ble ~~Court~~ Tribunal.

And I sign this affidavit on this the 19<sup>th</sup> day of December 2003 at Guwahati.

Identified by me.

*Ramesh*  
19-12-03  
Advocate.

*Azabur Ali*  
Deponent



Solemnly affirmed and declared before me by the deponent who is identified by Sri AZIZUR RAHMAN Advocate, on this the 19<sup>th</sup> day of December , 2003 at Guwahati.

*[Signature]*  
19.12.03  
MAGISTRATE, GUWAHATI

*[Signature]*  
Magistrate  
Guwahati

S.C. No. 2642

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.226 o. 2000

Date o. decision: This the 2nd day o. April 2001

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

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

1. Md. Azhar Ali
2. Md Esahar Ali
3. Md Salimuddin Khan
4. Shri Mahesh Chandra Das
5. Shri Hari Chandra Das
6. Shri Rameswar Sharma

All are Mazdoors presently serving in  
583 Engineer Park Garrison Engineer,  
Narengi, Guwahati.

Advocate Mr R. Sharma

.....Applicants

versus -

The Union o. India, represented by  
The Secretary to the Government o. India,  
Ministry o. Defence,  
New Delhi.

The Engineer-in-Chief,  
New Delhi.

3. The Eastern Command,  
Fort William, Calcutta.
4. The Chief Engineer,  
Shillong Zone, SE Falls,  
Shillong.
5. The Commandar Works Engineer,  
Shillong.
6. The Commander Works Engineer,  
Dijun.
7. The Garrison Engineer,  
Narengi, Guwahati.

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

.....Respondents

Attested  
19/12/03

AV-ANO  
25/11/01



-16-  
12

25

ORDER (ORAL)

CHOWDHURY, J. (V.C.)

The issue pertains to regularisation of service.

2. The applicants are six in number. All of them are presently working as Mazdoors under the respondents. The applicants joined service as Mazdoors and after obtaining motor driving licence they have been rendering their service to the respondents as MT Driver. All the applicants obtained their driving licences on test and issued by the District Transport Officer. The respondent authority after verifying the driving licences from their end, also provided the applicants with licences for driving of military vehicles including motor cycles, cars/station wagons/lorries etc. The applicants were issued Military Motor Vehicle Driver's licences. By this application these applicants claim for being absorbed as MT Driver with effect from the date of rendering service as MT Driver in the department and to provide the full scale payable to the MT Driver from the date they are discharging their duties. The applicants before moving the Tribunal submitted representation before the respondents. Failing to get proper remedy, they have moved this Tribunal for redressal of their grievances.

3. The respondents contested the case and submitted their written statement. According to the respondents these applicants accepted duties assigned to them at various stages as Motor Drivers without any protest. Their applications were considered sympathetically, but they could not qualify. The respondents stated that as per GE 583 Engr. Part I dated 3.2.1992 and 1.11.1995 the applicants were permitted to ply military vehicle without any higher rank and pay, which they could have refused. In para 5 of the written statement the respondents have stated that the candidature of the applicants were considered and rejected by the

*affected*  
*19/12/03*

Screening Board on the following grounds against each individual:

"(a) Md Azhar Ali  
S/o Md Taker Ali

: (i) Overage

ii) Copy o. Employment exchange card is not enclosed with the application

iii) Renewal the driving licence upto 14.11.99 only.

b) Md Eshar Ali

: i) Copy o. employment exchange card is not enclosed with application.

c) Md. Salimuddin Khan

: i) Copy o. employment exchange Card is not enclosed with application

d) Shri Muhesh Chandra Das

: i) Copy o. employment exchange card is not enclosed with application.

Son o. Late Sundie Ch Das

ii) Validity o. Driving licence expired 20.12.99.

e) Shri Hari Chandra Das

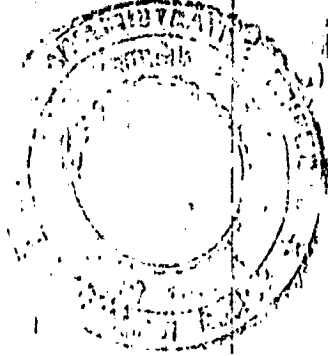
: i) Copy o. employment exchange card is not enclosed with application.

f) Shri Kameswar Sharma

: i) Copy o. employment exchange card is not enclosed with application

ii) Overaged being date o. birth 15.1.66.

iii) Validity o. licence expired 27.11.97."



4. We have given our anxious consideration in the matter. Undoubtedly, these applicants are discharging their duties like that o. Motor Driver and they are duly qualified to work as MT Driver. According to the applicants a number o. vacant posts are there. The reasons cited by the respondents for rejection o. the candidature o. these applicants cannot not be accepted. The applicants are rendering their service as Mazdoors since a long time and they were engaged as such considering the age and other eligibility criteria. They are all departmental candidates and therefore, the reasons assigned by the respondents for rejecting the claims o. applicant Nos.1 and 6 on the ground o. their being overaged cannot be accepted. Similarly, the grounds for rejecting the claim o. the other applicants for not enclosing their Employment Exchange Cards and absence o. renewal o. Driving Licence is also not a valid ground.

The.....

*Attested*  
*19/12/03*

The employees are working as casual Mazdoors under the respondents and the Employment Exchange Card was at all essential that formally could also have been complied with if such notice was issued. On the own showing of the respondents, the applicants possessed the Driving Licences and were driving the vehicles. If the Driving Licences were not renewed the respondent authority could have taken steps for renewal of the same. In the circumstances, the grounds cited by the respondents cannot be accepted, more so, in view of the policy adopted by the respondents for providing promotional avenue to MT Drivers from the Group 'D' employees. A decision for promotion of Group 'D' employees to MT Drivers was taken as far back as 1995 after the 75th Departmental Steering Committee Meeting held on 11.10.1995, where the JCM Member raised a point to identify a separate category, i.e. Mate (MT Driver) since a large number of qualified Mazdoors, Chowkidars and Satalwalas were already deployed on the job of driving vehicles without any extra payment thus forcing them to face various types of tension.

Mr R. Sharma, learned counsel for the applicants, also brought our attention to the decision rendered by the Ernakulam Bench of the Central Administrative Tribunal in O.A.No.737 of 1997, V. Ramadas vs. Union of India and others decided on 2.1.1998, mentioned in 10/98 Swamysnews 69. We have also heard Mr A. Deb Roy, learned Sh.C.G.S.C.

6. Considering all the aspects of the matter, we are of the view that this is a case in which the respondents are required to reconsider the matter afresh for absorbing these applicants as MT Driver against available vacancies as well as against the future vacancies subject to their seniority. The respondents while considering the case of the applicants for absorbing them as MT Driver, should also consider, if necessary, to relax the age taking note of the fact that these applicants have been continuously rendering their service as Drivers since the date of their entry into service and also take note of the fact that these applicants are departmental candidates and therefore, their age should be taken note of considering their initial entry as casual Mazdoors.

We.....

Attested  
19/12/03

We are of the view that to fulfil the Constitutional duty and as a model employer, the respondents should take necessary steps for providing them the promotional benefit as MT Driver considering the fact that they have continuously rendered service with the respondents as MT Driver. The respondents shall take all possible steps to remove the grievances of the applicants with utmost expedition.

7. With the above observation the application is allowed. There shall, however, be no order as to costs.



nkm

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Certified to be true Copy

প্রমাণিত প্রতিলিপি

Section Officer (J)  
অনুমতি অফিসারী (ন্যাযিক শাসন)  
Central Administrative Tribunal  
কেন্দ্রীয় প্রশাসনিক অধিদপ্তর  
Guwahati Bench, Guwahati-8  
গুৱাহাটী : অসমপ্রদেশ, গুৱাহাটী-৮

30/4/2011

Attested  
19/12/03

Annexure - B.

BY REGD. POST WITH A/D

Date : 5.5.2001

To

- 1) The Secretary  
Govt. of India  
Ministry of Defence, New Delhi.
- 2) Engineer-in-Chief  
Kashmiri Gate, New Delhi.
- 3) Eastern Command  
Port William, Calcutta- 21.
- 4) Chief Engineer,  
Spread Eagles Falls,  
Shillong- 1.
- 5) Commander Works Engineers,  
Biligjan

Subject : Prayer for regularisation of services in  
the posts of MT Drivers from the date of  
discharging duties of M T Drivers.

Reference : O.A. No. 226 of 2000

Md. Azhar Ali & Others .... Applicants.

-Versus -

Union of India & Others ... Respondents.

Respected Sir,

Most respectfully, we beg to state that we have  
been continuously discharging the duties of the M T Drivers  
as follows till date and M E S Drivers Licences have been  
renewed till 21-12-2001

<u>Name</u>	<u>Date of continuously discharging M T Drivers duty</u>	
1. Md. Azhar Ali (MES- 225678 )	12-8-87	Till date
2. Md. Eashar Ali (MES- 225533 )	12-7-83	" "

contd...p/2

Attested  
R. Man  
19/12/03

( 2 )

- |    |  |          |           |
|----|--|----------|-----------|
| 3. | Md. Salimuddin Khan<br>(MES- 225583 )  | 12-7-83  | Till date |
| 4. | Sri Mahesh Ch. Das<br>(MES- 22540)     | 09-11-90 | " "       |
| 5. | Sri Hari Chandra Das<br>( MES- 225710) | 14-03-88 | " "       |
| 6. | Sri Rameswar Sharma<br>( MES- 225708 ) | 30-10-84 | " "       |

We have approached several times in different occasions for payment salary in the scale of M T Drivers and the same have not been paid till date.

We approached before the Hon'ble Central Administrative Tribunal, Guwahati Bench redressing our grievances being O.A. No. 226 of 2000 and the Hon'ble Tribunal upon hearing between the parties passed the order on 2.4.2001 directing your honour to take necessary steps for providing us the promotional benefit as M T Drivers considering the fact that we have been continuously rendered services as M T Drivers with M E S and your honour shall take all possible steps to remove our grievances with utmost expedience ( A copy of order is annexed herewith for ready reference).

It is therefore, most respectfully prayed that your honour would be graciously pleased to absorb us with effect from the date shown as above in the post of M.T. Drivers Grade 'C' and arrears salary and future payment be made in the scale of Rs. 3050-75-3950-80-4590 P.M.

*Attested*  
*Rupa*  
*19/12/03*

contd...pp/3

( 3 )

with retrospective effect and for this act of kindness  
we shall ever pray.

Yours faithfully,

1. Sd/- Azhar Ali
2. Sd/- Eashar Ali
3. Sd/- S. Khan,
4. Sd/- Sri Mahesh Ch. Das,
5. Sd/- H.C. Das,
6. Sd/- Rameswar Sharma

Enclo : A copy of order dated 2-4-2001 in O.A. No.226 of 2000

Attested  
Rana  
19/12/03

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9640  
NAME: THE COAH WOR ENGI.  
CITY: SHILLONG  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9641  
NAME: THE COAH WOR ENGI.  
CITY: SHY 26  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9642  
NAME: THE COAH WOR ENGI.  
CITY: SHY 26  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9643  
NAME: THE COAH WOR ENGI.  
CITY: SHY 26  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9644  
NAME: THE COAH WOR ENGI.  
CITY: SHY 26  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9645  
NAME: THE COAH WOR ENGI.  
CITY: SHILLONG  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9646  
NAME: THE COAH WOR ENGI.  
CITY: SHY 26  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

भारतीय डाक  
INDIA POST  
GUMMATHI G.P.O. (731001)  
REG. AD 9647  
NAME: THE COAH WOR ENGI.  
CITY: SHY 26  
INS FOR RS. 0 / P-STAMP RS. 0  
AMT: 22.00/ Gms.23H / 09/05/2001 14:31

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SHIPRA PH 0575712106/750201

SHIPRA PH 0575712106/750201

Attested  
R. Man  
19/12/03



ACKNOWLEDGEMENT

ADDRESSED TO

*Comptroller-in-Chief*

NAME

*Engineer*

SIGNATURE

OF

ADDRESSEE

*Dingman*

*[Signature]*

*2576*

*Attested*  
*[Signature]*  
*19/12/03*

Annexure - D

ORDER DATED 1-2-2002 IN W.P.(C) NO. 539 OF 2002

P R E S E N T

THE HON'BLE CHIEF JUSTICE MR R S MONGIA

THE HON'BLE MR. JUSTICE AK PATNAIK

1.2.2002

After hearing Mrs MD Sarma learned counsel for the petitioners, we are of the opinion that the view expressed by the learned Central Administrative Tribunal cannot be interfered in the Writ Petition. What has been observed by the learned Tribunal is that the Applicants before the Tribunal who had worked for a pretty long time as Drivers should be considered for absorption as such even by relaxation of their age, Their cases, as per the Tribunal, were rejected wholly on technical ground, like Driving Licence having not been removed, Cards from Employment Exchange having not been produced, etc. These aspects have been considered by the Tribunal, and we do not find anything wrong in the judgment of the Tribunal. The writ petition is dismissed.

As this stage, learned counsel for the petitioners, submitted that some time be granted to carry out the directions of the Tribunal. We consider four months time reasonable to carry out the directions. Consequently, the petitioners are granted four months time from today to carry out the direction of the Tribunal in OA 226 of 2000 dtd. 2.4.2001. In this view, Mr. R. Sarma, learned counsel for the respondents( applicants before the Tribunal states that the applicants would not pursue the contempt petition filed by them before the Tribunal subject to right that they will get it revived if the petitioners fail to consider their cases as per directions of the Tribunal within four months.

*Attended  
R. Sarma  
19/12/03*

Sd/- A.K. Patnaik  
Judge

Sd/- R.S. Mongia  
Chief Justice

31-22-3-02

Annexure -E

Commander Works Engineers  
Spread Eagle Falls  
Shillong -11

OA NO 226/2000 FILED BY SHIR AZHAR ALI AND OTHERS IN CAT  
GUWAHATI BENCH AND WP(C)539/2002 FILED BY THE DEPTT IN  
HON'BLE HIGH COURT GUWAHATI.

1. Ref E-In-C's Branch , AHQ letter No. 90237/7386 EIC  
(Legal-B)dtd. 14 Feb 2002 and your HQ Fax letter No. 70222/OA-  
226/2001/Legal/2/EI dtd 15 Feb. 2002.

2. Following comments/information called for the  
connection with implementation of Hon'ble High Court Judgment  
pronounced in WP(C) 539/2000 are submitted as under :-

(a) One vacancy of CMD(OBC)Ex-servicemen has been  
released for recruitment vide HQ Ce SZ letter No. 70604/4B/IV/  
124/EIC(I) dtd. 21 Nov 2000 which has been withheld vide HQ  
Ce SZ letter 70602/4C/77/EIC(I) dt. 02 Mar 2001 (Ref to E-In-C's  
Br. AHQ letter No. PC- 79160/S/PI/EIC (1) dt. 02 Feb 2001).  
Therefore no recruitment action is pending with this office.

(b) All the individuals involved in OA 226/2000 are  
having valid driving license.

(c) CEs formations of Guwahati/Narengi Complex under  
the adm control of this office are having deficiency of 08 Nos  
of CMD against the posted strength, the state of which is  
indicated against the name of each :-

Ser No.	Fmns	State		
		Auth	Holding	Deficiency
1	GE Narangi	10	06	04
2	GE Guwahati	10	08	02
3	GE 583 EP	05	03	02
Total :		25	17	08 Nos.

3. It may be seen from the above, that GEs formations  
mentioned above together accounted for 08 Nos. CMD on deficient  
side out of which GE Narangi alone accounts for 04 Nos.

Attested  
D. Man  
19/10/03

Annexure-E(contd...2)

4. In order to ensure implementation of CAT Guwahati/ High Court Judgement within a period of 04 months the applicants numbering 06 OA No.226/2000 can be accommodated by way of providing appointment on posting wherever applicable through recruitment against the existing vacancies of 08 Nos. CMD, those Fans together accounted for provided the vacancies to be released to accommodate the applicants are released against each GE, The vacancies to be released againse each GEs are as under :-

<u>Ser No.</u>	<u>FMns</u>	<u>Vacancies to be released</u>
1.	GE Narangi	04 Nos as per existing vacancies
2	GE Guwahati	01 No against the existing vacancies of 02 Nos.
3.	GE 583 EP	-do-

5. The action as proposed above would not only avoid delay in implementing the CAT/High Court judgment but also obviate the possible amendment of Recruitment Rules. However, the implementation of CAT/High Court judgment in a manner proposed above would provide succour to the applicants in the instant cases OA No but the same would have its impact and become a precedence to negate the effect of all such cases which are likely to occur in near future on all India basis.

6. In view of above, it is requested to examine and advice the feasibility /admissibility of the action as proposed above to deal with the instant case or otherwise.

Sd/- NK Jain

SE, CWE Shillong

Copy to :-

GE Narangi- Please intimate the financial effect at the earliest.

*Attested*  
*Q. uen*  
*19/12/03*

32

4-22-3-02

Annexure - F

Headquarters  
Chief Engineer  
Shillong Zone

SE Falls

Shillong - 793011

IMPLEMENTATION OF CAT GUWAHATI JUDGMENT IN OA NO. 226/2000  
FILED BY MD AZHAR ALI AND OTHERS/

1. Ref E-in-C's Br letter No. 90237/7386/EIC(Legal-B) dt. 14 Feb 2002, this HQ fax No. 70222/OA 226/2000 /Legal/03/E1 dt. 15 Feb 2002 and your HQ signal No. 0- 7036 dt. 20 Mar 2002.

2. Case regarding absorption of the applicants in the above OA ( six in total) to the post of CMD as per CAT Guwahati verdict dt. 02 Apr 2001 has been examined by this HQ in the light of E-in-C's Br letter under ref and the position is as follows :-

(a) CWE Shillong vide their letter No.1151/CAT/OA 226/2000/129/E1 dt. 22 Mar 2002 intimated that only one vacancy of CMD (OBC) reserved for Ex- Servicemen was released for direct recruitment during Mar 2000 and the same was utilised. As such no recruitment action is pending with them.

(b) Vacancy of CMD exists in the following units under the jurisdiction of CWE Shillong.

<u>Ser No.</u>	<u>Unit</u>	<u>Auth</u>	<u>Held</u>	<u>Def</u>
i.	GE Narangi	10 ✓	06 ✓	04 ✓
ii.	GE Guwahati	10 ✓	08 ✓	02 ✓
iii.	GE 583 EP	05	03	02
			<u>Total def</u>	<u>08</u>

(c) All the applicants of the above OA are possessing valid driving licence.

(d) As regards age relaxation in respect of applicants it is submitted that Hon'ble CAT Guwahati in their judgment dt. 02 Apr 2001, it has been clearly indicated in para 6 - " to relax the age taking note of the fact that these applicants have been continuously rendering their services as

*Attested  
Ramon  
19/12/03*

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Annexure- F(contd..2)

drivers since the date of their entry into service...." in view of this the overage factor should not come on their way while absorbing them to the post of CMD provided fresh vacancies are released by the Govt. The same view has been expressed by E-in-C's also vide para 4 of their letter under ref.

3. In view of the above facts it is requested to approach to E-in-C's Br/MOD to release 06(six) vacancy of CMD to grant appointment to the applicants in relaxation of the present ban for direct recruitment at an early date to avoid contempt petition.

4. CWE Shillong is being directed to obtain sufficient extension of time for implementation of the judgment, but same may not come through as in the last hearing, the Hon'ble Judge gave an extension of four months only against a request of six months EOT requested by the CGSC.

5. This is a potential CP Case.

Sd/- KS Mukhopadhyay

SE(SG)

SO I ( Pers)

For Chief Engineer

Copy to :-

E-in-C's Branch- for info wrt their under ref.

Army Headquarters

Kashmir House DHQ PO

New Delhi- 110011

CWE Shillong- Wrt their letter under ref. Please obtain sufficient extension of time well in advance under intimation to all concerned.

GE Narangi - for info and necessary action.

*Attested  
Dura  
19/12/03*

Annexure - 6  
4-23-7-02

Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios	Date of delivery of the requisite stamps and folios	Date on which the copy was ready for delivery	Date of making over the copy to the applicant
4.7.2002	5.8.2002	5.8.2002	5.8.2002	5.8.2002

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA: MIZORAM AND ARUNACHAL PRADESH)

MISC. CASE NO. 669/2002.  
In W.P(C) No. 539/2002.

1. The Union of India,  
Represented by the Secretary to the Govt. of India, Ministry of Defence, New Delhi.
2. Engineer-in-chief, Kashmiri House, New Delhi.
3. The Chief Engineer, E.C., Fort William, Calcutta-21,
4. The Chief Engineer, Shillong Zone, SE Falls, Shillong-11.
5. The Commander Works Engineer, SE Falls, Shillong-11.
6. The Commander Works Engineer, Dinjon,
7. The Garrison Engineer, Narangi, Guwahati.

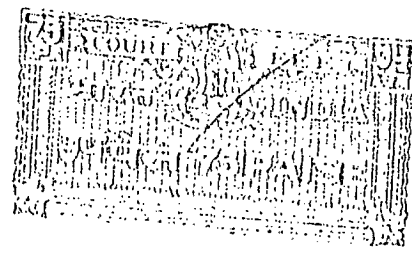
..Petitioners.

-Versus -

1. Md. Azhar Ali (MES-225678),  
S/o Md. Taher Ali,  
Garrison Engineer, Narangi, Guwahati.
2. Md. Esahari Ali (MES-225533)  
S/o Md. Ibrahim Ali,  
583-Engineer Park, Garrison Engineer, Narangi, Guwahati.

Contd

Attested  
19/12/03



3. Md. Salimuddin Khan (MES-225638),  
S/o Lt. Abdul Khan,  
583-Engineer Park, Garrison Engineer,  
Narangi, Guwahati.
4. Sri Mahesh Chandra Das (MES-22658)  
S/o Lt. Sunder Ch. Das,  
Garrison Engineer, Narangi, Guwahati.
5. Shri Hari Chandra Das (MES-225719),  
Son of Sri Madhu Ram Das,  
Garrison Engineer, Narangi,  
Guwahati.
6. Sri Rameswar Sharma (MES-225708)  
Garrison Engineer, Narangi, Guwahati.

..... Respondents.

P R E S E N T

The Hon'ble the Chief Justice,  
&  
The Hon'ble Mr. Justice Amitava Roy.

For the petitioners:- Mr. N.D. Sharma, Addl. GGSC.

For the Respondents:- Mr. R. Sharma, Advocates.

Date:- 23.7.2002. O R D E R

Heard Mrs. N.D. Sharma, learned standing counsel for  
Union of India and Mr. R. Sharma, learned counsel for the respondents.

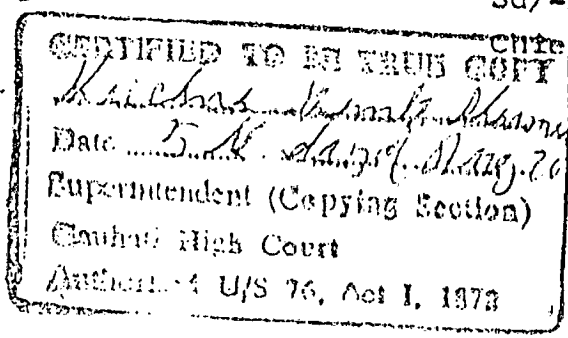
It is submitted by the learned counsel for the applicants  
that for implementing the order passed by this Court steps have  
already been taken. To implement the orders, certain changes have  
to be effected in the relevant service Rules and thus the applica-  
cants need some more time to implement the order of this order.

Considering the fact that the respondents are to be  
appointed on the posts and for that purpose the Rules have to be  
amended, we extend the period by four months from today for  
implementation of the order passed by this Court.

The Misc. Case stands disposed of.

Sd/- Amitava Roy.  
Judge.

Sd/- P.P. Naolekar,  
Chief Justice.



12.3.11  
15.8  
19/12/03

Attested  
19/12/03



- 32 -  
47 45  
Mily : 5012

A. M. M. H. J.  
REGISTERED A/D  
Headquarters  
Chief Engineer  
Shillong Zone  
SE Falls  
Shillong-793011

70222/OA 226/2000/Legal/ 61 /E1

03 Oct 2002

1. MES/225678  
Md Azhar Ali, Maz  
C/O GE Narangi
2. MES/225533  
Md Esahar Ali, Maz  
C/O GE 583 Engr Park
3. MES/225638  
Md Salimuddin Khan, Maz  
C/O GE 583 Engr Park
4. <sup>225404/</sup> MES/225608  
Shri Mahesh Ch Das, Maz  
GE Narangi
5. MES/225710  
Shri Hari Chandra Das, Maz  
C/O GE Narangi
6. MES/225708  
Shri Rameswar Sharma, Maz  
C/O GE Narangi

IMPLEMENTATION OF CAT GUWAHATI ORDER DATED 02 APRIL 01 IN  
OA NO 226/2000 FILED BY SHRI AZAHAR ALI AND OTHERS V/S UOI  
AND OTHERS

Dear Sir,

1. Honourable CAT Guwahati in their Judgement dated 02 Apr 01 on the OA No. 226/2000 have interalia observed as follows :-

"Considering all the aspects of the matter, we are of the view that this is a case in which the respondents are required to reconsider the matter afresh for absorbing these applicants as MT Driver against available vacancies as well as against the future vacancies subject to their seniority. The respondents while considering the case of the applicants for absorbing them as MT Driver, should also consider, if necessary to relax the age taking note of the fact that these applicants have been continuously rendering their service as Drivers since the date of their entry into service and also take note of the fact that these applicants are departmental candidates and therefore, their age should be taken note of considering their initial entry as casual Mazdoors. We are of the view that to fulfil the Constitutional duty and as a model employer, the respondents should take necessary steps for providing them the promotional benefit as MT Driver considering the fact that they have continuously rendered service with the respondents as MT Driver. The respondents shall take all possible steps to remove the grievances of the applicants with utmost expedience."

Attested  
19/10/03

Contd..2/-

2. Your case for appointment as MT Driver have through. It has been decided that your case (except per No. 1 and 4) will be considered on receipt of Govt sanction appointment of MT Drivers subject to your eligibility and recruitment rules. As regards age relaxation for appointment this can be relaxed to the tune of Para 33 of Article 51 of CS. As regards petitioner 1 & 4 (Sh Md Azhar Ali and Shri Mahesh Chandra Das) their educational qualification is Primary pass whereas minimum education required for appointment of MT Driver is Middle Standard. However they can be promoted as Mate MTD and thereafter MT Driver after passing the due trade test of Mate for petitioner No. 1 and MT Driver for petitioner No. 2 after completion of 3 years service as Mate MTD they can be considered for promotion to MT Drivers

3. Similarly petitioners No. 2, 3, 5 and 6 are advised in their own benefit to give trade test of Mate MTD so they can be considered for promotion of Mate MTD and further promoted to MTD on passing the requisite trade test and completion of 3 years service of Mate MTD.

4. In view of the above, the Judgement dated 02 April 2001 on Hon'ble CAT Guwahati in OA No. 226/2000 stands implemented.

Yours sincerely,

(SN Bolakhe)  
Col  
Addl CE (Wks)  
for Chief Engineer

Copy to :-

E-in-C's Br(EIC Legal-B)- for information.  
Army Headquarters  
DHQ Kashmir House  
New Delhi - 11

Chief Engineer - for info wrt their letter No 131900/ 226/  
HQ Eastern Command 2000/AA/132/Engrs/E1(Legal) dt 19 Sep 02.  
Fort William  
Kolkata - 700021

CWE Shillong - You are directed to apprise the above  
position through CGSC to Hon'ble CAT  
Guwahati and to close the case.

GE Narangi

GE 583 Engr Park,

Shri A Dev Roy, - for information and necessary action  
Advocate, Sr CGSC please.  
CAT Guwahati

*Added  
19/12/03*

By Registered Post with  
Acknowledgement Due

Date 13.11.2002

To

- 1) The Chief Engineer,  
Military Engineer Service (MES)  
Shillong Zone,  
Spread Eagle Falls,  
Shillong - 793 011.

 GUWAHATI SPD (781001)  
 RL-AD 2107  
 PA : TILU  
 To: THE ADD CHIEF MIL ENG,  
 SHILLONG, PIN:

भारतीय डाक


 Wt: 27grams  
 PS: 0.00, Ant: 30.00, 13/11/2002, 10:52:55  
 HAVE A GOOD DAY

- 2) The Additional Chief Engineer  
Military Engineer Service (MES)  
Shillong Zone,  
Spread Eagle Falls,  
Shillong - 793 011.

 GUWAHATI SPD (781001)  
 RL-AD 2106  
 PA : TILU  
 To: THE CHIEF ENGR MIL ENGR SERV,  
 SHILLONG, PIN:

भारतीय डाक


 Wt: 27grams  
 PS: 0.00, Ant: 30.00, 13/11/2002, 10:52:41  
 HAVE A GOOD DAY

Subject: Notice for implementation of  
 2.4.2001 in C.A.No.226 of 2000 by letter  
 and spirit.

Reference: 70222/OA 226/2000/Legal/61/HI dated  
 03 October 2002 issued by Addl. Chief  
 Engineer (Works).

Sir,

Under instructions of my clients namely Md. Azhar  
 Ali, Md. Bashir Ali, Md. A Salimuddin Khan, Sri Mahesh Chandra  
 Das, Sri Hari Chandra Das and Sri Rameshwar Sharma, all  
 are Mechanical Exa for Transport Drivers (MTD) of the  
 office of No.583 Engineer Park, Garrison Engineer, Satgaon,  
 Narengi, Guwahati and office of Garrison Engineer, Satgaon

contd.

19/12/03

copy - b/s

contd..p/2.

Date .....

- 2 -

Narengi, Guwahati, I hereby address you as follows :-

1. That my clients joined as Mazdoors and had been discharging duties in the capacity of MT Drivers as follows till date and competent authority of Military Engineer Service issued MES Drivers Licences to my clients since then till date and renewed till 31-12-2002.

<u>Name of clients</u>	<u>Date of continuously discharging MT Drivers duty till date.</u>
1. Md. Azhar Ali (MES 225533 225678)	12-8-87.
2. Md. Eashar Ali (MES 225533)	12-7-83.
3. Md. Salimuddin Khan (Md 225533)	12-7-83.
4. Sri Mahesh Ch. Das (MES 225404)	9-11-90.
5. Sri Hari Chandra Das (MES 225710)	14-3-83.
6. Sri Rameshwar Sharma (MES 225708)	30-10-84.

2. That, my clients have approached several times in different occasions for payment of salary in the

contd.

CMR  
13/11/02

Attested  
Dma  
19/12/03

contd..p/2.

Date \_\_\_\_\_

- 3 -

scale of MT Drivers from the date of discharging duties till date and future payments in the scale of MT Drivers regularly and inspite of their repeated requests, the same have not been paid to them by you till date.

3. That, my clients redressed their grievances before the Hon'ble Central Administrative Tribunal being O.A.No. 226 of 2000 praying for promotion and payment of salaries in the scale of MT Drivers with effect from their discharging duties in the post of MT Drivers and the Hon'ble Tribunal upon hearing the original application (O.A.) No.226 of 2000, passed the order (oral) dated 2-4-2000 that grounds cited by the respondents in written statement cannot be accepted, more so, in view of the policy adopted by the respondents for providing promotional avenue of MT Drivers from Group 'D' employees. / decision for promotion of Group 'D' employees to MT Drivers was taken as far back as 1995 after the 75th Departmental Steering Committee Meeting held on 11-10-1995 where the JCM Member raised a point to identify a separate category i.e. mate MT Driver since a large number of qualified Mazdoors, Chowkidars and Safaiwalas were already deployed on the job of driving vehicle without any extra

contd.

DMO  
13/11/02

affixed  
Dumun  
19/12/03

contd..p/2.

Date .....

- 4 -

payments thus forcing them to face various types of tension.

4. That, my clients appeared in the Trade Test for Mate MTD held on 25 April, 1988 to 29 April, 1988 and declared pass vide Authority : CMC Guwahati letter No.1056/2564/EINB dated 21 June 1988 and Md. Bashir Ali passed the Trade test of Motor Driver (Ordinary Grade) Categories and communicated to the concern vide office memo No.1056 Vol-36/5058/EINB dated 16-9-2002 issued by CMC, Commandant Works Engineers (AF) Post : Airport, Dibrugarh, Guwahati-781015 and therefore my clients were qualified to be appointed on promotion in the year 1988 in the post of Mate MTD/MT Drivers and now my clients are ~~now~~ made surprised advising them to appear in trade test of Mate MTD for consideration of promotion of Mate MTD/MTD by you without verification of records held and maintained at your office. It may be mentioned that there is no para 33 of Article 51 of CSR ~~is~~ mentioned in your above cited letter and the Central Civil Services Rules contained of several Rules and therefore Para 33 of Article 51 of CSR should have been specified by specific Rules for relaxation of age of to the tune of 33 of Article 51 of CSR.

contd.

DKW  
13/11/02

Checked  
19/12/03

contd..p/2.

Date .....

- 5 -

5. That, on the last paragraph of the letter dated 03-10-2002 it is mentioned that "in view of the above, the judgement dated 2-4-2001 of Hon'ble CAT Guwahati in D.A. No.226/2000 stands implemented" and on the other hand, your office has nothing implemented inspite of discharging duties in the post of MT Driver and my clients have been humiliated by your letter dated 03-10-2002 which shown a considerable disregard in the fairness and justice by persons who is holding a senior defence post of Indian Army. Further I state that the refusal to give effect to the order of the Hon'ble Tribunal dated 2-4-2002 in O.A. No.226 of 2000 is wilful and intentional and the power of magistracy, prestige and dignity of the Hon'ble Tribunal has been seriously undermined by the appointing authority.

Please take notice that the services of my clients in the post of MT Drivers may please be regularised with effect from the date of discharge in the post of MT Drivers as shown above and arrears payment from the said dates till date may please be paid within 30 days from the date of issue this notice and future payments in the scale of MT Drivers may please be paid regularly to my

contd.

18/11/02

Attested  
19/12/03

contd..p/2.

Date .....

- 5 -

clients. Failure of to do so I have specific and clear instructions from my clients to institute Civil and Criminal proceedings against you before the competent court of law.

This is the last notice and a carbon copy is kept for future cause of action.

Thanking you,

Yours faithfully,

*Rajeshwar Sarma*  
13.11.2002  
( Sri Rajeswar Sarma )  
Advocate.

Attested  
19/12/03



Tels : 2222 2702

*Regd*  
Chief Engineer  
HQ Eastern Command  
Fort William  
Kolkata - 21

131515/2A/ 617 /Engre/EIC(2)

19 Jul 2003

Dte Gen (Personnel)  
Military Engineer Services  
Army Headquarters  
Kashmir House, New Delhi - 11

OA NO 226/2000 FILED BY MD AZHAR ALI  
AND OTHERS VS UOI AND OTHERS

1. Reference your HQ letter No 90237/7386/EIC(Legal) dt 30 May 2003.
2. It is intimated that Speaking Order bearing No 70222/OA 226/2000/Legal/61/EI dt 03 Oct 2002 has been issued to the following personnel by CE Shillong Zone :
  - (a) MES-225678 Md Azhar Ali - GE Narangl
  - (b) MES-225533 Md Azhar Ali - GE 583 Engr
  - (c) MES-225638 Md Salauddin Khan - GE 583 Engr
  - (d) MES-225648 Shri Mahesh Ch Das - GE Narangl
  - (e) MES-225719 Shri Hari Chandra Das - GE Narangl
  - (f) MES-225708 Shri Rameshwar Sharma - GE Narangl
3. Out of six personnel, two personnel as mentioned in Para 2 (d) & (e) above have already been passed the Trade Test of Mate (MTD) during May 2000. They have completed three years of service as Mate (MTD) during May 2003. Now they are eligible for promotion to CMD (OG) subject to passing the trade test of CMD (OG) which is being carried out by CNE (AF) Borjar.
4. Now out of three vacancies of MTD released vide your HQ signal No 503850/EIC (1) dt 26 May 2003, two vacancies have been sub allotted to CNE (AF) Borjar for direct recruitment to the individuals as mentioned in para 2 (d) & (e) above, subject to passing the trade test of CMD (OG) as per recruitment rules to implement the CAT judgement. One vacancy is being sub allotted to Zonal CE for direct recruitment.
5. This is for your information please.

( Binay Kumar )  
Col  
Col (Pers)  
for Chief Engineer

*Attached*  
*19/12/03*  
NOO

Copy to :-

Chief Engineer (AF)  
Shillong Zone

- 1. You are requested to instruct CNE (AF) Borjar to conduct the Trade Test of CMD (OG) expeditiously in r/o pers as mentioned

- 2 -

- in para 2 (d) & (e) above for direct recruitment and consider for recruitment against vacancy allotted vide this HQ letter No 131303/02/59/Engrs/EIC(I) dt 17 Jul 2003 subject to passing the trade test. Also take an early action to conduct the trade test of Mate (MTD) in r/o remaining para as mentioned in para 2 (a) to (c) & (f) above to implement the CAT judgement. *pl. Accelerated CAT process*

2. Please ensure your completion report should reach this HQ by 10 Aug 2003 positively.

CE, Shillong Zone

- For info and necessary action pl.

CWE (AF) Borjar

- For info and necessary action on priority being court case pl.

GE Narangl

- For info and necessary action pl.

GE 583 Engr Park

- For info and necessary action pl.

Internal

Copy to :-

EIC (I)

- For info.

EI (Legal)

- wrt his letter No 139900/225/2000/Engrs/EI Legal dt 30 Jun 2003.

*Attested  
Dura  
19/12/03*

51

Tele : 5048

Commander Works Engineer  
Spreed Eagle Falls  
Shillong - 793011.

119 1/61/-226/2000/232/EI

13 Aug 2000.3

HQ CHIEF ENGINEER  
Shillong Zone  
Spreed Eagle Falls  
Shillong - 793011ORA NO 226/2000 FILED BY MD. AZHAR ALI AND OTHERS  
V/S VOL AND

1. Reference HQ CK EC KALKATA letter No. 131515/2A/617/Engrs/EIC(2) dated 19 Jul 2003, a copy of which has also been endorsed to your HQ amongst others, and GE 683 Engrs Park letter No. 1304/B/119/ELA dated 31 Jul 2003.
2. It has been brought out by GE 583 Engrs Park vide letter at reference that following individuals of their division have already passed Trade Test for Mate during the year 1988 and PYO notifying the necessary casualty was published vide their PTO Nos 27/10 and 31/ dated 04 Jul 1988 (copy enclosed). However, as a result of introduction of new line of promotion for all industrial personnel during the year 1988-89, the under mentioned individuals had opted to new line of promotion as Mate (MTD) and accordingly they were treated as Mate (MTD) :-
  - (a) MES-228633 Md Esahar Ali, Mazdoor (PT)
  - (b) MES-225538 Md Salimuddin Khan, Mazdoor (PT).
3. In view of above, both the above named individuals are now eligible for appearing Trade Test for CMD (OT) to be conducted by CWE (AF) Barjar as instructed by HQ CEEC Kolkata vide their HQ letter at reference.
4. The above named two individuals have already passed the Trade Test for Mate (MTD) during April 88 and accordingly they have completed requisite 3 years of service in Mate (MTD) during April 91. Hence they are now eligible for promotion to CMD (OG) subject to passing

contd.

Attested  
19/12/03

- 2 -

of Trade Test which is to be carried out by GWE (AF) Borjar. MES/225533 Md Esahar Ali, Mazdoor (Ft) has already passed the Trade Test of CMD (OG) conducted during the year 2002 and necessary casualty to this effect has been published vide GE 583 EF No.39/10/2002 at 30 Sep 2002 ( copy enclosed).

5. In view of above, MES/225533 Md Esahar Ali fulfills the criteria for promotion to CMD (OG) which is to be done in accordance CAT Guwahati judgement and Speaking order issued by your HQ vide letter No.70222/OA 226/2000/Legal/GI/EI dated 03 Oct 2002. As regard MES/225533 Md Salimuddin Khan, who has already passed the T/T for Mate (Mtd) alongwith Md Esahar Ali during 1988, GE 583 is being asked to take the matter with GWE (AF) Borjar for conducting necessary T/T for CMD (OG).

6. In view of above, may case for absorbing MES/225533 Md Esahar Ali Mazdoor (PT), who has already passed the Trade Test for CMD (OG), against the functional post of CMD (OG) please be considered and taken up with the appropriate authority as per recruitment rules to implement the CAT Judgement. In this connection you may please find enclosed representation received from each individual.

( V  
AB-II  
For CWE Shilling

Encls :- As above.

Copy to :-

1. HQ Chief Engineer - Wrt above for information and necessary action pleased.  
Eastern Command  
Engineer's Branch  
For William  
Kolkata - 21

contd.

Attested  
19/12/03

2. HQ Chief Engineer (AF) - Pleased refer HQ CEEC  
Shillong Zone  
Elephant Falls  
EG Nonglyer West  
Upper Shillong - 793009  
Kolkata letter No.  
131615/2A/617/Engrs/EIC(2)  
dated 13 Jul 03 and it is  
requested to instruct  
CWE(AF) Borjar to conduct  
trade Test in respect of  
MES/225538 Md Salimuddin  
Khan for CMD(OG) along with  
others to implement  
CAF Judgement.
3. CWE(AF) Borjar  
for information and nece-  
ssary action pleased.
4. CE 583 Engrs Part  
C/C 90 APO  
Please ensure that case for  
conducting Trade Test of  
CMD(OG) in respect of  
MES/225538 Md Salimuddin  
Khan is taken up with  
CWE(AF) Borjar.

Attested  
D. M. M.  
19/12/03

GE 583 EP  
C/O 99 #00

ET (12/2/01)

2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	

Tain : 8048

Commander Works Engineer  
Spread Eagle Falls  
Shillong- 793011

1131/04-226/2002/32/EL

13 Aug 2002

HQ Chief Engineer  
Shillong Zone  
Spread Eagle Falls  
Shillong-793011

OA NO 226/2002 FILED BY NO 44041 ALL END OTHERS  
1/24/01 AND OTHERS

1. Reference HQ CM KC Kolkata letter No. 131816/24/617/Engg/MS(2) dated 19 Jul 2003, a copy of which has also been endorsed to your HQ amongst others, and GS 803 Engrs Park letter No. 1304/3/119/ELA dated 31 Jul 2003.

2. It has been brought out by GS 803 Engrs Park vide letter at reference that following individuals of their division have already passed Trade Test for Mate during the year 1993 and HTO notifying the necessary casualty was published vide their HTO Nos 27/19 and 31/89 dated 04 Jul 1993 (copy enclosed). However, as a result of introduction of new line of promotion for all industrial personnel during the year 1993-99, the above mentioned individuals had opted to new line of promotion as Mate(MTD) and accordingly they were treated as Mate (MTD):-

- (a) MS-226633 Md Kazi Asghar Ali, Mazdoor (PT)
- (b) MS-226638 Md Salimuddin Khan, Mazdoor (PT)

3. In view of above, both the above named individuals are now eligible for appearing Trade Test for CMD(OG) to be conducted by GML(AE)Barjar as instructed by HQ CMKC Kolkata vide their HQ letter at reference.

4. The above named two individuals have already passed the Trade Test for Mate(MTD) during April 89 and accordingly they have completed requisite 3 years of service in Mate(MTD) during April 91. Hence they are now eligible for promotion to CMD(OG) subject to passing of Trade Test which is to be carried out by GML(AE)Barjar. MS-226633 Md Asghar Ali, Mazdoor (PT) has already passed the Trade Test of CMD(OG) conducted during the year 2002 and necessary casualty to this effect has been published vide GS 803 Engrs Park No. 39/10/2002 dt 30 Sep 2002 (copy enclosed).

5. In view of above, MS/226633 Md Asghar Ali fulfills the criteria for promotion to CMD(OG) which is to be done in accordance GML Guwahati judgement and speaking order issued by your HQ vide letter No. 70222/04 226/2000/Legal/61/EL dated 03 Oct 2002. As regard MS/226638 Md Salimuddin Khan, who has already passed the T/T for Mate(MTD) alongwith Md Asghar Ali during 1993, GS 803 is being asked to take the matter with GML(AE)Barjar for conducting necessary T/T for CMD(OG).

Contd.....2/-

Attested  
19/12/03

55

-2-

In view of above, my case for absorbing HNS/220530 MA  
 Gashar Ali, Masdoor (PT); who has already passed the Trade Test  
 for CHM(00) against the functional post of CHM(00) please be  
 considered and taken up with the appropriate authority as per  
 recruitment rules to implement the CAG judgement. In this connecti-  
 on you may please find enclosed representation received from each  
 individual concerned.

By Order of the Director  
 (Signature)  
 (Signature)  
 (Signature)

(V. Dhar.)  
 AO-II  
 For CHM Shillong

Encls :- As above above

Copy to :-  
 1. HQ Chief Engineer, VRT above for information and necessary action please.  
 Engineer's Branch  
 Fort William  
 Kolkata-71

2. HQ Chief Engineer (AE) - Please refer HQ CAG's Kolkata letter  
 Shillong dated 13.12.15/24/617/Engg/119(2).  
 Dated 19.01.02 and it is requested  
 to conduct Trade Test in respect of  
 Upper Shillong-70909. HNS/220530 MA Shilimudin Khan (AE)  
 along with others to imple-  
 ment CAG judgement.

3. CHM(AE) Borjar - for information and necessary action  
 please.

4. CHM 582 Engg. Parko - Please ensure that case for conduct-  
 ing Trade Test of CHM(00) in respect  
 of HNS/220530 MA Shilimudin Khan  
 is taken up with CHM(AE) Borjar.

The above named 2nd individual has already passed  
 the Trade Test (CHM(00) against the functional post of CHM(00).  
 The case for absorbing him against the functional post of CHM(00)  
 is being taken up with the appropriate authority as per recruitment  
 rules to implement the CAG judgement. In this connecti-  
 on you may please find enclosed representation received from each  
 individual concerned.

The above named 2nd individual has already passed  
 the Trade Test (CHM(00) against the functional post of CHM(00).  
 The case for absorbing him against the functional post of CHM(00)  
 is being taken up with the appropriate authority as per recruitment  
 rules to implement the CAG judgement. In this connecti-  
 on you may please find enclosed representation received from each  
 individual concerned.

Checked  
 Date  
 19/12/03

Tele Mily : 6067

Annexure - L.

Garrison Engineer  
583 Engineer Park  
C/O 99 APO

1304/B/150/EIA

CWE Shillong  
SE Falls  
Shillong-11

4 30-8-03

OA No.226/2000 FILED BY MD. ASHAR ALI  
AMD OTHERS +VS- UOI AND OTHERS

01 Reference this office letter No. 1304/B/119EIA dated 21 Jul 2003 and CWE Shillong letter No.1151/OA-226/2000/232/EI dated 13 Aug 2003 and CBE (F) Borjar letter No. 1262/TT/289/EIA dated 19 Aug 2003 and S ignal No. 7010 dated 26 Aug 2003.

02 MES-225538 Md Salimuddin Khan, Mazdoor, in the meanwhile has qualified the Trade Test of CMD(OC) conducted by CWE(A/F) Borjar on 25 Jul 2003. The same has already been confirmed by CWE(A/F) Borjar vide their letters under reference to all concerned.

03 In view of the above, both the involved personnel of this office, are eligible for promotion to CMD(OG) and their promotion to CMD(OG) may please be confirmed accordingly.

Sd/- KL Bachani  
Lt Col  
Carrison Engineer.

Copy to :-

HQ Eastern Command  
Engineers Branch (EIC-2)  
Fort William  
Kolkata-21

CE(A/F) Shillong Zone

CE SE Shillong

CWE(A/F) Borjar

wrt. above for info and  
necessary action please.

*Attested*  
*Raman*  
*19/12/03*



100/00  
JUL 2000  
48  
Filed by  
C. C. G. S. C.  
21/7/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI

Contempt Petition No. 60 OF 2003  
IN O.A. No. 226 OF 2000

In the matter of :

Shri Md. Azhar Ali and others.

- Vs -

Union of India and others.

- And -

In the matter of :

Shri Md. Azhar Ali and others.

- Vs -

Shri V.D. Khar, AO-II

Commander Works Engineer

Spread Eagle Falls

Shillong Zone,

Shillong -11.

REPLY SUBMITTED BY THE CONTEMNER NO. 3.

I, V.D. Khar, AO-II, Commander, Works Engineer,  
Spread Eagle Falls, Shillong Zone, Shillong-11, do hereby  
solemnly affirm and declare as under :-

1. That the deponent is working as Commander Works-  
Engineer, Shillong Zone, and as such he is fully conversant  
with the facts of the case.

Contd.....  
+ *V.D. Khar*

2. That the deponent has gone through the contents of the aforesaid contempt petition and has understood the same.

3. That the deponent has the highest regard for the authority of this Hon'ble Tribunal and respectfully submits that there is no violation much less than the wilful and intentional disobedience and violation to the direction and order passed on 2.4.2001 by this Hon'ble Tribunal in O.A. No.226/2000.

4. The deponent respectfully submits that the petitioners No.1 (Md. Azhar Ali), No.4 (Shri Mahesh Chandra Das), No. 5 ( Shri Hari Chandra Das ) and No.6 ( Shri Rameshwar Sharma ) were appointed to grade of CMD(OG) by way of promotion vide letter No. 81620/2/MTD/903/EIC(2) dated 30.12.2003 as amended vide No. 81620/2/MTD/913/EIC(2) dated 22.1.04 and letter No. 81620/2/MTD/955/EIC(2) dated Feb. 2004 in compliance of the Judgement and Order dated 2.4.2001.

5. That the deponent begs to state that the case of other two petitioners (No.2 Md. Eschar Ali and No. 3 Md Salemuddin Khan ) is under process of finalisation and will be materialised very soon only on completion of required formalities by the petitioners.

In view of submission made hereinabove, the deponent respectfully prays that the present contempt Proceeding is liable to be dismissed by discharging the notices issued to the Respondents.

  
DEPONENT

9  
- 50 -  
# 3 /

V E R I F I C A T I O N

Verified that the contents of this Affidavit  
are true and correct to my knowledge based on the official  
records and belief. No material fact has been suppressed.

*M. L. L.*  
DEPONENT

*M. L. L.*

51

A F F I D A V I T

I, V. D. Khar, AO-II, Commander, Works Engineer,  
Spread Eagle Falls, Shillong Zone, Shillong-11 do hereby  
solemnly affirm and state as follows :

1. That I am the contemner and I am acquainted with  
the facts and circumstances of the case and I am competent  
to & swear this affidavit.

2. That the statements made in paras  
are true to my information and those made in paras  
are true to my knowledge and rests are my humble submission  
before this Hon'ble Tribunal.

And I sign this affidavit this day 25<sup>th</sup> of MARCH  
2004.

  
X Deponent

Solemnly affirmed by the deponent  
Sri V. D. Khar who is identified  
by Sri A. Deb Roy, Advocate before me  
on this day of 2004 at Guwahati.

 Advocate.