

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Org.App/ Misc.Petn/Cont.Petn/ Rev.Appl. 32/04
J. O.A. 288/2000

Name of the Applicant(S) Smt. Nirmali Garma.

Name of the Respondent(S) Jai A.N. Deb Kauchari 208.

Advocate for the Applicant Mr. A. Khaleque,

Counsel for the Railway/ C.G.S.C. Mr. M.U. Ahmed,
ADD, C.G.S.C

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

4.8.2004

Issue notice to alleged contemnors to show cause as to why Contempt proceeding, as prayed for, should not be initiated against them, returnable by three weeks.

List on 26.8.2004 before the Division Bench.

KMDR
Member (A)

bb

Heard Sri A.Khaleque, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. At the request of Mr Deb Roy four weeks time granted to file reply.

List on 4.10.04 for order.

KMDR
Member (A)

J
Vice-Chairman

3/8/04

Section Officer (I)

Notice & order dt. 4/8/04
sent to D/section for pg
issuing to resp. Nos.
1 & 2, by regd. A/D post.

3/8/04

D/Memo No=1227
P 1228, Dt 13/8/04.
13/8/04

27.9.04

~~Reply submitted
by the Contemnor No.1.~~

4.10.2004 Present: The Hon'ble Mr.Justice R.K. Batta, Vice-Chairman.

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

Mr.A.Khaleque, learned counsel for the applicant as well as Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents were present.

At the request of learned counsel for the applicant adjourned to 25.11.2004. Put up C.P.45/2003 and O.A.288/2000 alongwith this matter on that day.


K.V.Prahladan
Member (A)


R.K. Batta
Vice-Chairman

24-11-04

S/R - awaited.



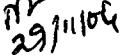
25.11.04 When the matter called for none present for the applicant. Mr A.Deb Roy, learned counsel for the respondents is on leave.

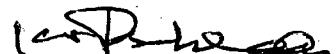
List on 16.12.04 for order.

29/11/04

1) Reply submitted by the contemnor no.1.

2) S/R is awaited for contemnor no.2.


29/11/04


K.V. Prahladan
Member

16.12.04.

Heard learned counsel for the parties. Division Bench is not available to-day. Case is adjourned to 18.1.2005.

15-12-04

1) Reply has been
B/Ted. by Cont. 2
2) S/R awaited for
Cont. no. 2.

lm


R.K. Batta

Vice-Chairman

18.1.05

1) Reply filed by
Cont. no.1.
2) S/R awaited from
R.no. 2.

lm

18.01.2005 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.
The Hon'ble Mr. K.V. Prahладан, Member (A).

Heard Mr. A. Khaleque, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr.C.G.S.C., who appears on behalf of both the contemners.

The Sr.C.G.S.C. has submitted before us that the period from the date of dismissal i.e. to say 26.6.89 till the death of the deceased husband of the applicant has been treated as extra ordinary leave which cannot be treated as qualifying service as per provision of Rule 21 of CCS (Pension) Rules, 1972. Therefore, the amount of family pension and DCRG have been worked out on the net qualifying service excluding the period of 11 years 3 months and 14 days. The stand taken by the contemners, in our opinion, is totally erroneous in the light of the Paragraph 6 of judgment dated 4.7.2001 in O.A.288/2000, which reads as under:

"6. In the circumstances the impugned order of dismissal dated 26.6.1989 dismissing late Hem Chandra Sarma, since deceased, is set aside and quashed. In view of the setting aside and quashing of the dismissal order, the husband of the applicant was to be treated to be in service till his death and the respondents are accordingly directed to pay the necessary pay and allowances of the deceased Hem Chandra Sarma and also to release the full retiral benefits to the applicant as early as possible, preferably within three months from the date of receipt of the order, being wife of the deceased Hem Chandra Sarma."

From the reading of the above Paragraph 6 it is clear that the dismissal order of the husband of the applicant dated 26.6.1989 was set



Contd.../2

Contd.

18.01.2005 aside and it was specifically held therein that in view of the setting aside and quashing of the dismissal order, the husband of the applicant was to be treated to be in service till his death and the respondents were accordingly directed to pay the necessary pay and allowances of the deceased Hem Chandra Sarma and also to release the full retiral benefits (emphasis supplied).

In view of this, the period from the date of dismissal till his death has to be treated as on duty since for no fault of the husband of the applicant, he was prevented from discharging the duty. The contemners shall, therefore, count the said period of qualifying service for the purpose of pension and DCRG. Consequently, contemners are directed to work out the pension, DCRG and all other dues payable to the applicant and also to pay regular pension. In the facts and circumstances, we grant three months time to contemners for compliance of the order passed today.

K
The contemners shall file compliance report at the end of three months and the matter be listed for the purpose of compliance on 4.4.2005.

The Contempt Petition is accordingly disposed in aforesaid terms. Copy of the order duly authenticated to be furnished to both sides for compliance.

25-1-05
Copy of the order has been sent to the Office for issuing the same to the applicant as well as to the Dr. C.G.S.C. for the respondent.

S/R awaited.

Parthiban
Member

bb

4.4.05

Post the matter on 25.4.05 for compliance.

R
Vice-Chairman

Rajiv
Vice-Chairman

lm

Present: Hon'ble Mr.Justice G.Sivarajan, Vice-Chairman.

25.4.05.

Pl. comply order
dated 25.4.05.

R
25.4.05.

Office will explain why no action be taken either to bring this to the notice of the Bench or to the parties, in view of direction in the order.

Post the matter on 2.5.05.

G. Sivarajan
Vice-Chairman

Ref: court's order 1m
dated 25.4.05 already
communicated to the
Applicant / C.G.S.C vide
memo NO. 153-154 dated
27.1.05 and received by
them in due time.

NZ
29.4.05.

Pl. comply order dated
2.5.05.

NZ
2.5.05.

Present: Hon'ble Mr.Justice G.Sivarajan
Vice-Chairman

Hon'ble Mr.K.V.Prahladan, Adminis-
trative Member.

The learned counsel for the applicant has produced a copy of the order dated 31.3.05 passed by the Superintendent of Post Offices alongwith enclosures and submits that the direction was not been fully complied with. We find that there was specific direction in the order dated 18.2.05 passed in the Contempt Petition to the Respondents to file compliance Report. So far, no compliance report is filed. Mr.M.U.Ahmed the learned Addl.C.G.S.C submits that earlier Mr.A.Deb Roy, Sr.C.G.S.C. was dealing with this matter and that the presence C.G.S.C. will inform the matter to the Respondents.

Post the matter on 17.5.05. If no compliance report is filed within that time the concerned respondents will present before this Tribunal on that day.

Communicate the copy of the order to Mr.M.U.Ahmed, Addl.C.G.S.C

K. V. Prahladan
Member

G. Sivarajan
Vice-Chairman

13.5.05

A letter dated 4.5.2005 received from Supt. of Post offices, Dibrugarh Division, Dibrugarh regarding Contempt petition 32/2004 in O.A. 288/2000 for information which may kindly be seen at flag B.

17.5.2005

* Mr M.U. Ahmed, learned counsel for the respondents placed before us a communication dated 4.5.2005 and submits that the direction issued in the O.A. has been complied with. Mr A. Khaleque, learned counsel for the applicant, submits that this order does not show that there is full compliance. In the circumstances the applicant is directed to file objection, if any, within two weeks.

Leave before the Hon'ble court for further orders.

Post the matter on 13.6.05.

K. D. Basu
Member

E. Vaijanath
Vice-Chairman

DRB
for Section Officer (nkm)

13.6.2005

Learned counsel for the applicant has filed an objection. Mr. M.U. Ahmed, learned Addl. C.G.S.C. seeks further time. Post on 13.7.2005.

K. D. Basu
Member (A)

E. Vaijanath
Vice-Chairman

① Order dt. 2.5.05 recd
by the Addl. C.G.S.C. Mr. M.U. Ahmed.
② No. Affidavit recd

③ A communication wrt to
order dt. 18.1.05 recd
at flag 'A' 13.7.05.

Counsel for the applicant is
absent. Post the matter on 18.7.05.

K. D. Basu
Member

E. Vaijanath
Vice-Chairman

14.6.05

lm

18.7.05.

The Respondents have earlier filed compliance report. However, the counsel for the applicant has filed objection stating that some directions has not been complied with. Again the Respondents have filed affidavit alongwith annexures as per entire directions of the order dated 18.01.2005 in O.A. No. 288 of 2000. ~~In the above circumstances the C.P. is closed.~~ In the above circumstances the C.P. is closed.

K. D. Basu
Member

E. Vaijanath
Vice-Chairman

20.7.05
Copy of the order has been
sent to the office for issue
the same to the applicant by
post.

lm

Central Administrative Tribunal

- 3 AUG 2004

Guwahati Bench

Nirmali Sarma
Through
Abdul Khaleque
Advocate

2.8.04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH:
GUWAHATI.

CONTEMPT PETITION NO. 32 OF 2004.

In O.A. No. 288 of 2000.

IN THE MATTER OF :

A petition under Section 17 of the
Central Administrative Tribunal Act,
1985 praying for punishment to the
Contemner/ Respondents for non-
compliance of judgment & order dated
4-7-2001 passed by this Hon'ble
Tribunal in O.A. No. 288 of 2000.

-AND-

IN THE MATTER OF :

Smt. Nirmali Sarma,
wife of Late Hem Chandra Sarma,
(Ex-Sub-Post Master Bamunbari Sub-Post
Office)
Resident of Dakhin Ganesh Nagar,
Basistha, Guwahati.

.....Petitioner.

-versus-

Contd.....2.

1. Sri Ajit Narayan Deb Kachari,
 Post Master General, Assam Region
 Dibrugarh, Assam.

2. Sri Atul Bora
 Supdt. of Post Offices,
 Dibrugarh Divn, Dibrugarh- 786001
 Assam.

.....Respondents/Contemnners.

The humble petition of the above named
 applicant ;

MOST RESPECTFULLY SHEWETH :

1. That, the applicant is the wife of Late Hem Chandra Sarma who worked as Sub Post Master of Bamun Bari Sub Post Office. That while Sri Hem ch. Sarma was working at Bamunbari he suddenly fell ill on 26.6.89. As he was living alone of Bamunbari there was none of look after him and he came to Guwahati, to live with his family and for taking medical treatment handing over the charges to his reliever.
2. That the applicant begs to state that the illness of her husband had not been cured and he remained bed-ridden till his death on 7.7.98. That during his illness Sri Hem Ch. Sarma filed leave application, enclosing Medical Certificate, and filed numerous representation before the Contemnor/respondent to pay

Nirmali Sarma

Contd.....3.

the leave salary, G.P.F., advance etc., but the respondent did not responded to those letters and on 30.4.98, Sri Sarma was informed (in reply for voluntary retirement petition) that he had been dismissed on 26.6.89. That on receipt of this information Sri Sarma wrote several representation but none of the representations were considered and lastly he died on 30-4-98.

3. That after receiving the information of his dismissal Sri Hem Ch. Sarma wrote several appeal/petition before the Contemner respondent to review the decision of his dismissal and urged them pay the voluntary retirement benefit to him but those were not considered by the respondents.
4. That after the death of Sri H. Sarma, his wife Smt. Nirmali Sarma filed several representation/appeal before the authorities to vacate the dismissal order of her husband and requested them to pay the family pension and other service benefit of her late husband, but those appeals were not considered by the respondent.
5. That Smt. Nirmali Sarma filed an application before this Hon'ble Tribunal praying for setting aside the dismissal of her late husband and for paying the family pensions and other service benefit to her. The said petition was admitted by this Hon'ble Court and numbered as O.A. No. 288/2000. In the said O.A., notices were issued to the respondent and they appeared and contested the case.

Contd.....4.

Nirmali Sarma

6. That after hearing both the parties at length this Hon'ble Tribunal allowed the petition and quashed the dismissal order of late Hem Sarma and directed the respondent "to pay the ~~amount~~ necessary pay and allowances of deceased Hem Chandra Sarma and also to release the full retrial benefit to the applicant as early as possible preferably within three months from the date of receipt of this order."

Copy of the said judgment and order is enclosed herewith and marked as Annexure—"A".

7. That the applicant begs to state that inspite of clear direction from the Hon'ble Tribunal the Contemner/ respondents have deliberately not complied with the judgment & order dated 4-7-2001, and the applicant filed a contempt petition under section 17 of the Administrative Tribunal Act, 1985 and the said petition was registered as C.P. No. 58/2001 and noticed were issued to the contemner.

8. That on receipt of the notice from this Tribunal the Contemner filed a writ petition in the Gauhati High Court. The Hon'ble High Court in W.P.(C) No. 7795/01, initially issued notice of motion and stayed the order of the Hon'ble Tribunal and at this stage the Hon'ble Tribunal was pleased to drop the C.P. No. 58/2001.

Contd.....5.

Nirmali Sarma

(5)

9. That the applicant begs to state that the Hon'ble Gauhati High Court by its order dated 21.7.03 dismissed the W.P. (C) No. 7795/01 and upheld the order of this Hon'ble Tribunal passed in O.A. No. 288/2000.

(Copy of the order of the Hon'ble High Court is filed herewith and marked as Annexure- "B").

10. That finding no way out your applicant filed another contempt petition against the Contemner/respondent for not implimenting the Order of the Hon'ble Tribunal passed in O.A. No. 288/2000 and the said Contempt petition was registered as C.P. No. 45/03.

11. That the applicant begs to state that on receipt of this notice of contempt Case No. 45/03, the Contemner/respondent appeared before the Hon'ble Tribunal and gave written assurances that the order of the Tribunal shall be implemented without any further delay and on the basis of the assurances the Hon'ble Tribunal was pleased to drop the C.P. No. 45/03.

12. That after 6 months of their assurances, the Contemner/respondent issued two letters on 16.4.04 to the applicant whereby an amount of Rs. 49,856/- was sanctioned and six month's pension was sanctioned and deducted illegally Rs. 21,298/- from those amount as punishment recovery.

(Copy of the letter enclosed as Annexure-'C' and

'D').

Contd.....6.

Nirmali Sarma

13. That the applicant begs to state that the Contemner/respondent interpreted the Hon'ble Tribunal Order on their own way and calculated the Gratuity amount leaving 9 years service as non qualifying service which is against the judgement of the Court. It may be mentioned that the punishment given to Late Hem ch. Sarma was quashed by this Tribunal, but the contemner respondent deducted illegally Rs. 21,298.70 paise ~~was~~ as punishment recovery.

14. That the applicant beg to state that the Hon'ble Tribunal directed the contemner/respondent to pay the usual pay and allowances of the deceased Hem Ch. Sarma from 26.6.1989 to 7.7.98, but the Contemner/respondent have refused to pay the arrear salary from 26.6.89 to 7.7.98, and thereby they have shown utter disregard and disrespect to the Hon'ble Tribunal.

15. That the applicant begs to submit that unless the Contemner/respondent are not hold up in case of contempt of Court, the Contemner will not implement the judgement and order passed by this Hon'ble Tribunal and as such it is a fit case, where the contemner may be directed to appear before this Hon'ble Tribunal to explain as to why they shall not be punished for not implementing the judgment & order dated 4-7-2001 passed in O.A. No. 288/2000.

Contd----7.

Nirmali Sarma

16. That your applicant submits that the Contemner/respondents deliberately and intentionally had disobeyed and dishonoured the judgment and order passed by this Hon'ble Court in O.A. No. 288/2000 and hence all of them are liable to be punished under the provision of contempt of Courts proceeding.

17. That your applicant submits that she has filed this petition bonafide for the ends of justice.

Under the facts and circumstances stated above it is therefore respectfully prayed that your Lordship may be pleased to admit this petition and issue contempt notice to the Contemner/respondents to show cause as to why they should not be punished under Section 17 of the Central Administrative Tribunal Act, 1985 or pass such other order or orders as the Hon'ble Tribunal deem fit and proper.

Further it is also prayed that in view of the deliberate disrespect and disobedience to carry out the Hon'ble Tribunal's order the Contemner No. 1 should be asked to appear in person before this Hon'ble Tribunal to explain,

Contd.....8.

Normali Sarma

why they should not be punished for
contempt of Court.

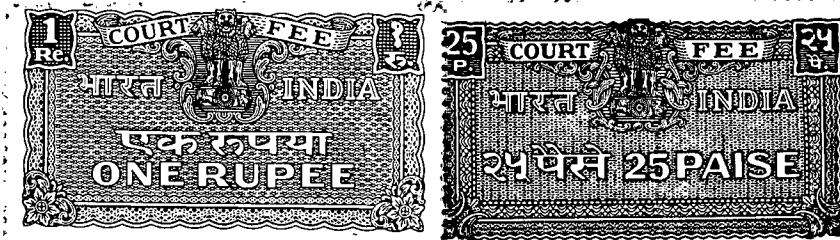
And for this act of kindness your humble petitioner
as in duty bound shall ever pray.

DRAFT CHARGE

The applicant aggrieved for non-compliance of the Hon'ble Tribunal's Judgment & Order dated 4-7-2001 passed in O.A. No. 288/2000. The Contemner/respondents have willfully, deliberately violated the judgment & order passed in O.A. No. 288/2000 by not implementing the direction contained therein till date. Accordingly the Contemner/respondents are liable for contempt of Court proceeding and severe punishment thereof as provided under the law. They may also be directed to appear in person and reply the charge of this Hon'ble Court.

Nirmali Sonne

.....Affidavit/P-9.



- 9 -

A F F I D A V I T

I, Smt. Nirmali Sarma, Wife of Late Hem Chandra Sarma, aged about 45 years, a resident of Dakhin Ganesh Nagar, Basistha, Guwahati, Dist- Kamrup, do hereby solemnly affirm and state as follows :-

- 1) That, I am the Contempt Petitioner in the abovementioned Contempt petition and as such I am acquainted with the facts and circumstances of the case.
- 2) That, the statements made in paragraphs 1, 2 and 3 are true to my knowledge and those made in para 4, 5, 6 being matters of records are true to my information derived therefrom which I believe to be true and the rests are my submissions before this Hon'ble Tribunal.

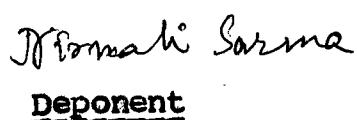
This is true to my knowledge.

And I sign this affidavit on this the 2nd day of August, 2004 at Guwahati.

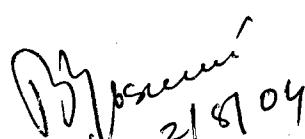
Identified by me,


21/8/04

Advocate.


Nirmali Sarma
Deponent

Solemnly affirmed and declared before me by the deponent who is identified by Sri A. Khaleque, Advocate on this the 2nd....day of August, 2004 at Guwahati.


21/8/04

ADVOCATE:GUWAHATI.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.288 of 2000

Date of decision: This the 4th day of July 2001

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

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

Smt Nirmali Sarma,
Wife of Late Hem Chandra Sarma
(Ex Sub-Post Master, Bamun Bari Sub-Post Office),
Resident of Dakhin Ganesh Nagar, Basistha,
Guwahati.Applicant

By Advocate Mr A. Khalique.

- versus -

1. The Union of India, represented by
The Secretary, ^{As. D.M.}
Department of Post Posts,
Government of India,
New Delhi.
2. The Superintendent of Post Office,
Tinsukia Division,
Tinsukia, Assam.
3. The Director of Postal Services (HQ),
Guwahati.

.....Respondents

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

ORDER (ORAL)

Go:

CHOWDHURY.J. (V.C.)

This is an application under Section 19 of the
Administrative Tribunals Act, 1985 seeking for a direction
on the respondents for providing the retiral benefits as
per law. The applicant in this application has also
assailed the purported order for dismissal of her husband
from service.

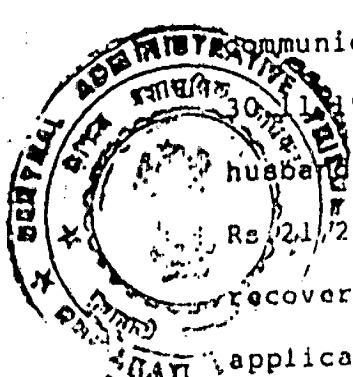
2. Brief facts necessary for adjudication of this proceeding are set out below:

The applicant's husband, late Hem Chandra Sarma, was working as Sub-Post Master at Bamun Bari Sub-Post Office. According to the applicant her husband suddenly fell sick on 26.6.1989 and came to Guwahati for medical treatment, handing over charge to his reliever. The applicant also intimated about the ailment of her husband to the respondent authority. It was also stated that the applicant's husband was transferred from Bamun Bari Sub-Post Office to Tinsukia Head Post Office, but due to his continuing ill health he could not join at Tinsukia Post Office. According to the applicant, during the period of illness her husband's health deteriorated and her husband submitted several representations before the respondent No.2 informing him about his illness and also requested for granting him leave salary and withdrawal of GPF money, but the respondent No.2 did not heed to the prayer of the applicant's husband. It is also stated that the husband of applicant submitted a number of representations asking sanction of Rs.45,000/- as part final withdrawal of GPF for his treatment. Instead, the husband of the applicant received a communication dated 30.4.1998 from the Accounts Officer (Postal Accounts), by which the Sr. Postmaster (Grade I), Guwahati GPO was directed to make arrangement for payment of Rs.2459/- to the applicant's husband towards final payment of GPF. The said communication also informed that the husband of the applicant was dismissed from service on 26.6.1989. The applicant's husband, Hem Chandra Sarma, by communication dated 3.6.1998 informed the respondent authority about the fact that he was totally unaware about the purported dismissal from service since no.....

: 3 :

no chargesheet was communicated to him. By his communication the husband of the applicant also informed that he was completely bed-ridden due to prolonged illness. The applicant's husband also submitted a further appeal dated 30.6.1998 accompanied by medical certificates to the respondent authority.

3. The husband of the applicant died on 7.7.1998 and the applicant intimated the same to the respondent authority by communication dated 20.7.1998. By the said communication the applicant also demanded payment of Gratuity, Group Insurance, Pension etc. of her late husband. Further, she preferred an appeal before the Director of Postal Services, Headquarter, by communication dated 20.10.1998. The Superintendent of Post Offices, Tinsukia Division, by Memo dated 24.8.1999 advised her to submit a death certificate of her late husband to enable the department to settle her claim. The applicant accordingly submitted the death certificate by communication dated 13.9.1999. By the impugned order dated 30.1.1999, the applicant was informed that her late husband defalcated Government money amounting to Rs 21,298.70, out of which an amount of Rs.1873.30 was recovered from the arrear pay of her late husband. The applicant was accordingly requested to credit the balance amount of Rs.19,425.40 as defalcated amount. The applicant, questioning the aforesaid action of the respondent authority, submitted her representation dated 17.1.2000 demanding sanction of PDRG, Pension etc in her favour. failing to get appropriate remedy from the respondents, the applicant moved this Tribunal by way of the present O.A.



4. The respondents submitted their written statement. According to the respondents the husband of the applicant absented himself from 24.10.1988 and so he was dismissed from service on 26.6.1989 vide Memo No.F2-8/88-89 dated 26.6.1989. The respondents also intimated that the applicant's husband applied for GPF advance of Rs.45,000/- on 17.7.1997 for his treatment, but since he was dismissed from service on 26.6.1989, part payment of GPF money could not be allowed. The respondents further stated that the matter was referred to the Director of Accounts (Postal), Calcutta and vide their Memo dated 4.5.1998 a sum of Rs.2459/- was sanctioned. Save and except the application for fifteen days leave with effect from 25.10.1988, no other leave application was received by the respondents. The respondents stated and pleaded that the husband of the applicant was dismissed from service after holding a proper

Inquiry.

We have heard the learned counsel for the parties at length. Mr A. Khaleque, learned counsel for the applicant, amongst others, assailed the order of dismissal as arbitrary and discriminatory. The learned counsel for the applicant submitted that the purported disciplinary proceeding against the late husband of the applicant cannot be sustained since her deceased husband was denied with the principles of natural justice. Mr Khaleque further submitted that the purported enquiry was conducted behind the back of the delinquent officer and the same could not be sustained. Mr A. Deb Roy, learned Sr. C.G.S.C., submitted that the enquiry was conducted after due notice to the husband of the applicant. The report of the Inquiry Officer did not specifically indicate about the steps taken for service of notice on the husband of the applicant. We have called for the records and from the records it appears

that.....

that the statement of articles of charge against the late husband of the applicant was framed in consonance with the CCS Rules, 1965 by Memo dated 29.11.1988. The records did not specifically indicate that the notice dated 29.11.1988 was served on the husband of the applicant. The record also did not indicate service any such notice. The enquiry was held from time to time. One enquiry was held on 16.1.1989. The other enquiries were held on 31.1.1989 and 27.3.1989. Then the case was adjourned with the note that the next date of Hearing would be intimated. It appears that the enquiry was conducted behind the back of the applicant's husband. No other materials were furnished to show and establish that the delinquent officer was duly notified about the date of the enquiry and for his appearance, notwithstanding, the fact about the ailment of the husband of the applicant.

The Disciplinary Authority also intimated about the humanitarian angle, but it did not indicate about the nature and context of this humanitarian consideration. According to the Disciplinary Authority the preliminary enquiry was held on 16.1.1989 and notice was sent to the delinquent officer by registered post on 4.1.1989. According to the Disciplinary Authority the said notice was received by the delinquent officer on 10.1.1989. No materials were shown that the delinquent officer was ordered to appear on 16.1.1989 and on the dates of hearing on 31.1.1989 and 27.3.1989. The records also did not indicate any such notice dated 4.1.1989 to the delinquent officer. Further, the materials on record did not indicate that the aforesaid disciplinary proceeding was held in conformity with the principles of natural justice and on that ground alone the impugned order holding the husband of the applicant guilty and.....

and the order of dismissal consequent thereto cannot be sustained. Accordingly the impugned order of dismissal is set aside. The delinquent officer is no longer alive, therefore, question of providing the respondents to hold a fresh enquiry does not arise.

6. In the circumstances the impugned order of dismissal dated 26.6.1989 dismissing late Hem Chandra Sarma, since deceased, is set aside and quashed. In view of the setting aside and quashing of the dismissal order, the husband of the applicant was to be treated to be in service till his death and the respondents are accordingly directed to pay necessary pay and allowances of the deceased Hem Sarma and also to release the full retiral benefits to the applicant as early as possible, preferably within three months from the date of receipt of the order, being wife of the deceased Hem Chandra Sarma.

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

Sd/VICE CHAIRMAN
Sd/MEMBER (Adm)

Certified to be true Copy
প্রমাণিত প্রতিলিপি

Section Officer (S)

সামুদায় কার্ডিনেল (স্যার) অধিকারী
Central Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক উদ্বোধন
Guwahati Bench, Guwahati
পাহাড়ী স্বাক্ষরী, গুৱাহাটী

4/11/2007

ASSAM

Annexe 75 P/3



प्रतिलिपि के लिए आवेदन की तारीख
Date of application for the copy.

रायग्राम और फोलियो की अपेक्षित संख्या घोषित करने की नियमित तारीख
Date fixed for notifying the requisite number of stamps and folios.

घोषित स्टाम्प और फोलियो देने की तारीख
Date of delivery of the requisite stamps and folios.

रायग्राम, जबकि देने के लिए प्रतिलिपि तैयार थी
Date on which the copy was ready for delivery.

आवेदक को प्रतिलिपि देने की तारीख
Date of making over the copy to the applicant.

25/6/03 28/6/03 28/6/03 29/6/03 29/6/03

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR : TRIPURA :

MIZORAM AND ARUNACHAL PRADESH)

CASE NO. W.P.C. 7795 OF 2001.

Union of India, Represented by the secretary,

Department of Post, Government of India, Through the Superintendent of Post offices, Dibrugarh Division, Dibrugarh, Assam.

..Petitioner.

-Vs-

Smti Nirmali Sarma, Wife of Late Hem Chandra Sarma
Resident of Dakshin Ganeshnagar, Bassisatra
Guwahati- 28.

..Respondents.

..PRESENT:

THE HON'BLE THE CHIEF JUSTICE

THE HON'BLE MR. JUSTICE I.A. ANSARI

For the petitioner :- Mr. B. Sarma, Addl. OGSC.

For the respondent:- Mr. A. Khalique, Advocate.

Date of hearing & Judgment:- 21st July, 2003.

JUDGMENT & ORDER (ORAL).

HON'BLE C.J.

Heard Mr. B. Sarma, the learned Additional

...2/

SIEVING JURISDICTION

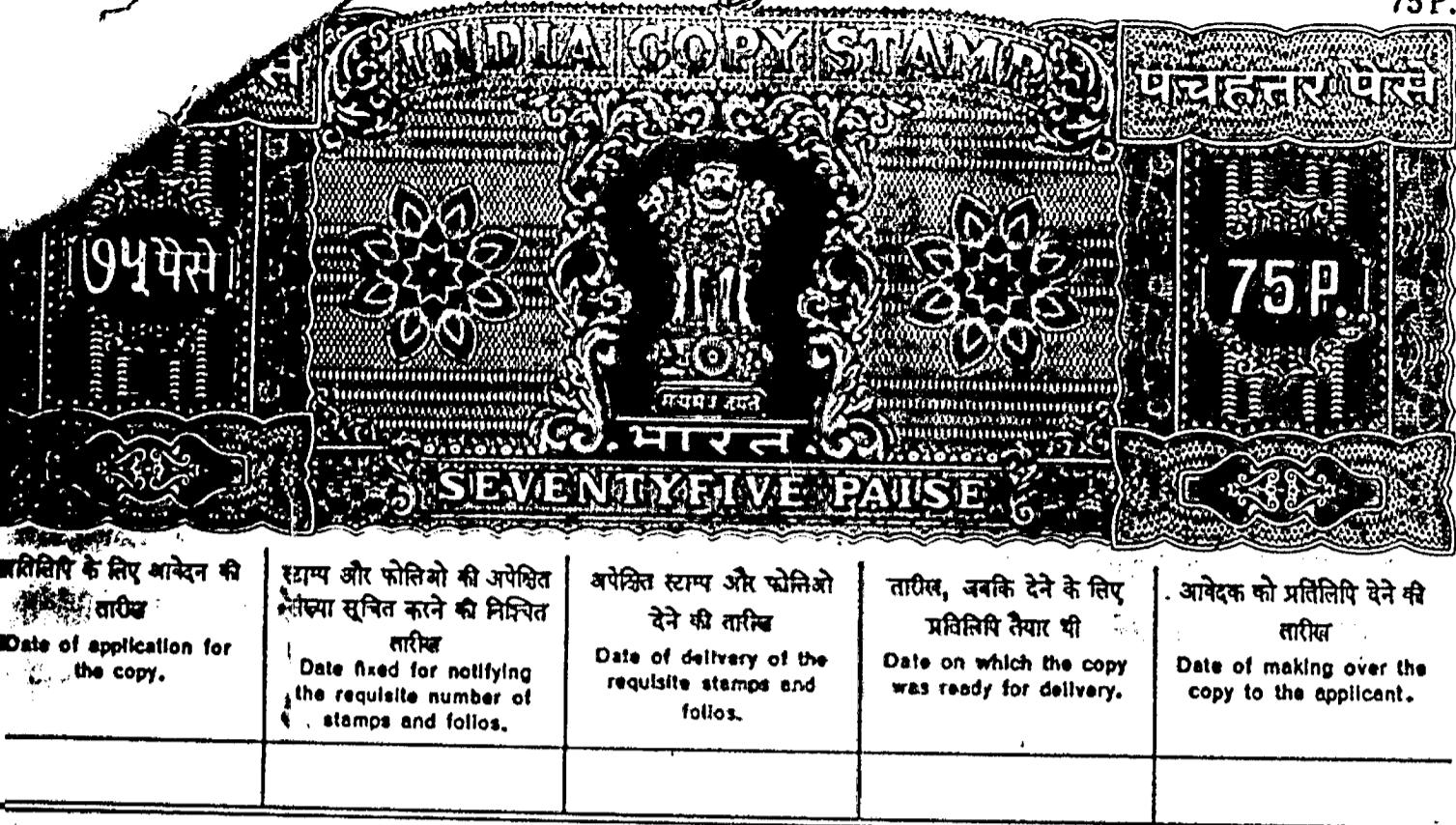
प्रतिलिपि के लिए धारेन की तारीख (Date of application for the copy.)	स्टाम्प और फोलो की अपेक्षित संख्या सूचित करने की नियमित तारीख (Date fixed for notifying the requisite number of stamps and folios.)	परेशित स्टाम्प और फोलो को देने की तारीख (Date of delivery of the requisite stamp and folios.)	तारीख, जबकि ऐने को यह प्रतिलिपि देता था (Date on which the copy was ready for delivery.)	डाकेत को प्रतिलिपि देने की तारीख (Date of making over the copy to the applicant.)

-2-

Central Government standing counsel appearing on behalf of the petitioner and Mr. A. Kh. Alique, the learned counsel appearing on behalf of the respondent.

2. The respondent's husband late Hem Chandra Sarma, was serving as sub Post Master at Bamun Bari Sub Post office. His service has been terminated by an order dated 26.6.1989. It appears that the service of the respondent's husband has been terminated on the charge that he remained absent from service and for defalcation of certain amount of the post office. The order of termination has been challenged by the wife as her husband died on 7.7.1998.

3. The Central Administrative Tribunal, Guwahati after consideration of the entire materials placed on records and the records of the alleged enquiry has found that the termination order has not been preceded by any intimation to the respondent's husband of the enquiry and as a result thereof the central Administrative Tribunal has set aside the order of termination.



-3-

In the appeal preferred by the Union of India, the learned counsel for the petitioner is unable to show us any notice by which the respondent's husband has been informed of the initiation of departmental enquiry against him. In the absence of notice whatsoever, the proceeding taken up against the respondent's husband was without jurisdiction and against the principle of natural Justice. The learned central Administrative Tribunal has rightly quashed the order of dismissal. We do not find any good or sufficient reason to interfere with the order any good or sufficient reason to interfere with the order passed by the learned Central Administrative Tribunal, Guwahati.

4. Accordingly, the writ petition is dismissed.

Sd/-I.A. ANSARI

Sd/-P.P. NAOLEKAR

JUDGE.

CHIEF JUSTICE.

Received No. of Writ Petition 17378
Photocopies by Type by
Date 29/7/03
Signed by K. D. 29/7/03
Competent by

CERTIFIED TO BE TRUE COPY

Minister of Home Affairs
Date 29/7/03
Superintendent of Posts (Name and Address)
Central Post Office, New Delhi
Addressed to

30/7/03

Department of Posts: India
Office of the Superintendent of Post Offices, Dibrugarh Division,
Dibrugarh-786001.

Memo No.: C-1/V.F.N/H.C.Sharma Dated at Dibrugarh the 16th April 2004.

In accordance with the provision laid down in Rule 80(A)(1) of C.C.S(Pension) Rules 1972, sanction of the undersigned is hereby awarded to the Provisional DCRG to the extent of (Rs.59856 - Rs.10,000)=Rs.49856/- (Rupees. Forty nine thousand eight hundred fifty six) only to Smti Nirmali Sharma, W/O Late Hem Chandra Sharma, Ex-SPM Bamunbari P.O. who was dismissed from service w.e.f. 26.06.1989 and expired on 07.07.1998 and who was treated as on service till 07.07.1998 vide the Hon. Guwahati High Court Judgement dated 21.07.2003.

The following recoveries are to be made from the DCRG.

- (1) Outstanding Punishment recovery of Rs.1594.75 (Rupees. One thousand five hundred ninety four and paise seventy five) out of Rs.3178.75 vide SPOs Tinsukia Division, Tinsukia Memo No. F2-1/85-86 dated 16.06.96,
- (2) Outstanding Medical Advance of Rs.800/- (Rupees. Eight hundred only) paid vide Tinsukia H.O. Bill no.52 of 7/88.
- (3) Outstanding T.A. advance of Rs.700/- (Rupees. Seven hundred only) paid vide Tinsukia H.O. Bill No. 46/9/88.
- (4) Outstanding amount of Rs.19425.40 out of Rs.21298.70 against alleged misappropriation of Govt. money by Late Hem Ch. Sharma vide SPOs Tinsukia memo no. F6-2/2000-01 dated Dibrugarh the 27.02.2004.

The sanction is subject to the condition that if the amount of DCRG is afterwards found to be paid in excess of the amount to which the claimant is entitled to under the rules, she shall be called to refund the excess paid amount.

Scd -
Superintendent of Post Offices
Dibrugarh Division, Dibrugarh-786001.

Copy to:-

- 1) The Sr. Postmaster, Guwahati G.P.O. for effecting payment.
- 2) The DA(P) Kolkata, through the Sr. Postmaster Guwahati G.P.O.
- 3) The Accounts Officer(Pension) O/O the DA(P) Guwahati, Nabagraha Path, Chenikuthi, Guwahati-3 for information.
- 4) Smti Nirmali Sharma, W/O Hem Chandra Sharma now at C/O Head Record Officer(M), Guwahati-1 for information.
- 5) Spare.

Scd 10/07/04
Superintendent of Post Offices
Dibrugarh Division, Dibrugarh-786001.

0016658

P.S.D.

Guwahati

भारतीय डाक



Department of Posts: India
Office of the Superintendent of Post Offices, Dibrugarh Division,
Dibrugarh-786001.

Memo No.: C-1/V.F.N./H.C.Sharma Dated at Dibrugarh the 16th April 2004.

In accordance with the provision laid down in Rule 80(A)(1) of C.C.S(Pension) Rules 1972, sanction of the undersigned is hereby accorded to the payment of Provisional Family Pension of Rs.2150/- + D.R. as admissible (Rupees. Two thousand one hundred fifty only) to Smti Nirmali Sharma, Wife Of Late Hem Chandra Sharma, Ex-SPM Bamunbari P.O. who was dismissed from service w.e.f. 26.06.1989 and expired on 07.07.1998 and who was treated as on service till 07.07.1998 vide the Hon. Guwahati High Court Judgement dated 21.07.2003.

The provisional Family Pension is payable from Guwahati G.P.O. The order is subject to the condition that if the amount of Provisional Family Pension is afterwards found to be paid in excess of the amount to which the claimant is entitled to under the Rules, she shall be called to refund such excess paid amount.

This sanction shall remain valid for six months i.e. from 08.07.1998 to 07.01.1999.

The Provisional Family Pension is debitable to the Head of Account 315-9-5(1)F.P.Voted.

Superintendent of Post Offices
Dibrugarh Division, Dibrugarh-786001.

Copy to:-

- 1) The Sr. Postmaster, Guwahati G.P.O. for effecting payment with intimation to this office.
- 2) The DA(P) Kolkata, through the Sr. Postmaster, Guwahati G.P.O.
- 3) The Accounts Officer(Pension Section), O/O the DA(P) Guwahati, Nabagraha Path, Chenzkuthi Guwahati-3 for information.
- 4) Smti Nirmali Sharma, W/O Late Hem Chandra Sharma, Ex-SPM, Bamunbari S.O. now at C/O Head Record Officer(M) Guwahati-1, for information.
- 5) Spare.

Superintendent of Post Offices
Dibrugarh Division, Dibrugarh-786001.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

27 SEP 2004

Ch.

File No. 7/9/04
R. DEB / 09
Sr. C. S. C
C. A. T. Guwahati Bench 2X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

C.P. NO. 32 OF 2004
IN O.A. NO. 288 OF 2000.

Smti Nirmali Sarma

..... Petitioner.
- Versus -

Shri Ajit Narayan Deb Kachari.

..... Contemner No. 1
Respondent

I, Ajit Narayan Deb Kachari, Post Master General
Assam Region, Dibrugarh, Assam, do hereby solemnly affirm
and say as follows -

1. That I have gone through the petition and understood the contents thereof. Save and except whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied.
2. That I have the highest reverence and regard for the Hon'ble Tribunal and its orders. If it, however, be held on consideration of the facts and circumstances of the case that, there had been any lapse on my part, then I hereby tender unqualified apology and sincere regret for

Ajit Narayan Deb Kachari

the same. I cannot even think of doing any act or omit to do any act which may be construed or treated as an act or omission amounting to contempt of Court or disobedience or violation of any order of the Hon'ble Tribunal. I hold Hon'ble Tribunal in highest and utmost respect and regard.

3. That the Hon'ble Tribunal by its order dated 4.7.2001 passed in O.A. No. 288/2000 set aside and quashed the impugned order of dismissal dated 26.6.1989. In view of the setting aside and quashing of the dismissal order, the husband of the applicant was to be treated to be in service till his death and the respondents are directed to pay the necessary pay and allowances of the husband of the applicant and also to release the full retirable benefits to the applicant.

4. That the respondents preferred a Writ petition in the Hon'ble High Court vide W.P. (C) No. 7795/2001 and the Lordships passed an order staying the Judgement and order dated 4.7.2001 passed by the Hon'ble Tribunal in O.A. No. 288/2000.

5. That the Writ petition was dismissed by the Hon'ble High Court by its Judgement and order dated 21.7.2003.

On receipt of the order dated 21.7.2003, the matter was taken up with the Secretary to the Government of India, Department of Posts, New Delhi as a policy

-3-

matter seeking advises as to whether SLP needs to be filed in the Hon'ble Supreme Court vide letter No. Vig/5/XXI/RO/2000 dated 16.9.2003 and another letter dated 10.10.2003 issued as reminder.

Copy of letter dated 16.9.2003 is annexed hereto and marked as Annexure - A.

Copy of letter dated 10.10.2003 is annexed hereto and marked as Annexure - B.

6. That DCRG amounting to Rs. 49,856/- was sanctioned vide SP0s/Dibrugarh Memo No. C-1/V.F.N/H.C. Sharma dated 16.4.2004 and a sum of Rs. 19,425.40 was ordered to be recovered from DCRG treating the amount as Government dues inadvertently. However on detection of mistake in course of ~~km~~ Checking, Rs. 19,425.40 plus Rs. 1,837.30 (recovered earlier from pay and allowances) altogether Rs. 21,298.70 was sanctioned for refund vide SPVs/Dibrugarh memo No. F6-2/2000-2001 dated 23.8.2004 and the amount was paid to the applicant on ~~25~~ 24.8.2004 from Guwahati G.P.C. under aquittance.

Copy of aquittance is annexed hereto and marked as Annexure - C.

7. That provisional family pension has been sanctioned vide SP0s/Dibrugarh memo No. C-1/V.F.N./H.C. Sharma dated 16.4.2004 for six months in accordance with the provision of Rule 80(A X1) of CCS(Pension) Rules,1972.

Aij Nanayon Dev Kashori

-3-

Payment of family pension will be regularised on receipt of Pension payment order from the A/Cs Officer (Pension - ||| Section), DA(P), Guwahati.

8. That the Judgment and order dated 4.7.2001 passed in O.A. No. 288/2000 is very clear that, the husband of the applicant was to be treated in service till his death and the respondents are accordingly directed to pay the necessary pay and allowances and also to release the full retiral benefits to the applicant.

According to the Judgment, the period from 26.6.1989 to 7.7.1998 was regularised by converting the entire period as leave of any kind due to the extent as may be admissible and rest by Extra Ordinary Leave under the provision of FR 54(5).

During the entire service period of Late H.C. - Sarma (husband of the applicant), absent, dies non and extra ordinary leave period worked out as 11 years 3 months 14 days and treated as non-qualifying service as per provision of Rule 21 of CCS (Pension) Rules, 1972 . Accordingly the amount of family pension and DCRG have been worked out on the net qualifying service.

Extract of Rule 21 is annexed hereto and marked as Annexure -D.

-5-

9. That the period from 26.6.1989 to 7.7.1998 has been regularised by converting the entire period as leave of any kind due to the extent as may be admissible and rest by Extra Ordinary Leave under the provision of Rule 54(5), a sum of Rs. 25,405/- being the pay and allowances for the period from 26.6.1989 to 7.7.1998 was sanctioned vide SPVs/Dibrugarh memo No. C-1/VPN/H.C. Sarma dated 13.7.2004 and paid to the applicant on 22.7.2004 from Guwahati G.P.O.

In view of the submissions made herein above I respectfully pray that the present contempt proceeding is liable to be dismissed by discharging the notice issued to the respondents.

That the statements made in para 1, 2, 3, 4, 7, 9 are true to my knowledge and belief and those made in para 5, 6, 8 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed or concealed any material fact.

And I sign this affidavit on this 10 th day of September 2004.

Ajit Narayan Dev Kachari
DEPONENT.

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ANNEXURE - A

पोस्ट मास्टर जनरल
डिब्रुगढ़ क्षेत्र, डिब्रुगढ़-786001
D.O.No.Vig/5/XI/RO/2000

Dibrugarh the 16th Sept/2003.

Dear Sir,

This is regarding disposal of a CAT case at Guwahati Bench.

One Mrs. Nirmali Sarma filed an OA No.288/2000 at the Guwahati bench of the CAT. The Hon'ble CAT had issued a judgement in this case on 4.7.01 in favour of the applicant. An appeal was filed in the High court of Guwahati. The Honourable High Court vide its judgement dtd. 21.7.2003 has upheld the judgement of CAT Guwahati Bench.

The case in brief is that the husband of the applicant late Hem Chandra Sarma was PA of Dibrugarh Division. After committing a fraud he remained on unauthorisedly absent w.e.f. 24.10.88. The Disciplinary Authority drew up proceedings under Rule 14 of CCS (CCA) Rules 1965 and dismissed late Hem Ch. Sarma from service vide memo. no. SPOs/Tinsukia memo. no. F2-8/88-89 dt. 26.6.89. The dismissal order could not be served to the late official as the RL returned back with the remarks "Absent", "Left without address".

It was only learnt later that the official expired on 7.7.98. During the period 24.10.88 to 7.7.98 the late official remained as absconder and did not report for any duty.

The Honourable CAT, Guwahati Bench in its judgement dtd. 4.7.01 has ruled that the late official was not given opportunity to defend himself and therefore, he punishment of dismissal should be set aside and all service benefits should be given to the late official.

Our contention has been that the applicant does not have any ground to file the OA. The memo. of dismissal was issued on 26.6.89 and the official expired on 7.7.98. During these 9 years there was enough time for the late official to file an appeal to the appropriate authority if he had any grievance. Further, he never reported for duty during these 9 years. Since the dismissal order could not be served on him, he was quite unaware of his dismissal and should have reported for duty.

It is found that both the Hon'ble CAT and Hon'ble High Court did not address the above facts.

The C.G.S.C. at Guwahati has opined that there is no merit for any further appeal and it is advisable to close the case for all.

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-27-

33

It is difficult to agree with the opinion of the C.G.S.C. It is felt that a SLP needs to be filed in the Supreme Court against the judgement of the CAT, Guwahati.

The case is therefore forwarded to Directorate for kind instruction and advice for further action. The documents related to the case are enclosed for ready reference.

With regards.

Yours Sincerely,

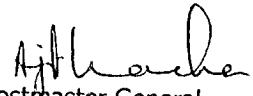
Encl: A/A

54) –
(A.N.D.KACHARI)

Shri S.Samant,
D.D.G.(P)
Department of Posts,
Dak Bhawan,
NEW DELHI – 110 001

Copy to –

1. The Chief P.M.G.(Vig), Assam Circle, Guwahati for information.
2. Shri Rajinder Kr. Kashyap, DPS,Dibrugarh, Camp New Delhi. He will kindly attend Directorate during his tour at N.Delhi and pursue the case.


Postmaster General
Dibrugarh Region
Dibrugarh – 786 001

(8)

7A



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ANNEXURE-B

पोस्टमास्टर जनरल
Dibrugarh, Assam, डिब्रुगढ़-786001
POSTMASTER GENERAL
DIBRUGARH REGION DIBRUGARH-786001

D.O. No.Vig/5/XXI/RO/2000

Dibrugarh the 10th Oct/2003

Dear Sir,

Kindly refer to this office D.O. letter of even number dt. 16.9.03. In that letter details of a CAT Guwahati order in OA No.288/2000 filed by Smti. Nirmali Sarma was forwarded. As CAT's order was upheld in appeal by Hon'ble Gauhati High court, Directorate was requested to advise whether a SLP can be filed in Hon'ble Supreme Court.

Now the applicant Smti. Nirmali Sarma has filed a contempt petition in the CAT, Guwahati Bench. Hearing of the contempt petition has been fixed on 27.10.03.

I would therefore, request that the matter may be looked into urgently and necessary advice given to this office.

With regards.

Yours Sincerely,

(A.N.D. KACHARI)

Shri S. Samant,
D.D.G. (P)
Department of Post,
Dak Bhawan,
NEW DELHI – 110 001

Copy to –

Shri Rajinder Kr. Kashyap, DPS, Dibrugarh Region, Dibrugarh. He is requested to visit Directorate on 13.10.03 and discuss the case with the concerned officers so that the matter is expedited.

Postmaster General
Dibrugarh Region
Dibrugarh- 786 001

P/T, Smti Nirmali Saumah w/o Late Sh. Ch. Saumah
 सी. जी - 17 भारतीय डाक विभाग ITSG-II PA, G.H.R.M.S.
 A.C.G.-17 DEPARTMENT OF POST - INDIA

(डाक-तार बिस्त पुस्तिका, खंड 1 (द्वितीय संस्करण, दूसरा पुनर्मुद्रण) के परिशिष्ट 11 के तियम 6 (ख) के नीचे की टिप्पणी देखें)

929
ANNEXURE-C

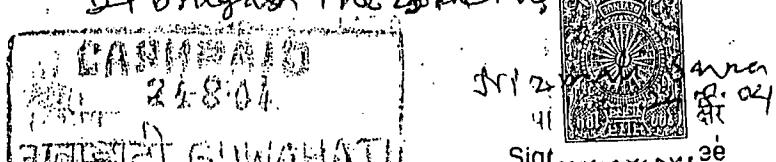
(See Note below Rule 6 (b) of Appendix II to Posts and Telegraphs Financial
 Handbook Volume 1)

21,298.70 (2nd Edition 2nd Reprint)
 Rs. 21,298.70 (2nd Edition 2nd Reprint) (Obverse) मूल्य एवं दर
 रसीद / Receipt

तारीख 19 वाउचर सं
 The Guwahati GPO 19 Voucher No.
 के बिना से रु. की राशि प्राप्त की।

Received from the S/o PM/6th GPO
 The sum of Rupees Twenty one thousand two hundred and eighty
 On account of Eight and Seventy Ps. only being arrear
 Pox and allowances and recovered from
 Rs/Rs. 21,298.70 G.C.R.A Sanctioned vide S.P.O./Dibrug
 arth memo N.O. FG-2/2000-2001 dt'd
 Dibrugash the 20th Aug.

गवाहीसुदा भुगतान
 Witnessed Payment



गवाही के हस्ताक्षर
 Signature of Witness

टिप्पणी - यदि रसीद को आंगनीकृत करना चाहिए तो उसे अंग्रेजी को या उसके जिसी भाषा में लिखा जाना चाहिए। जो व्यक्ति उस रसीद पर हस्ताक्षर करता है वह उसके नीचे कोष्ठक में अपना नाम लिखना चाहिए।
 Note :- If the receipt be not written or not signed in English/ Hindi the whole of the portion
 in English/Hindi must be translated by the Paying Officer. A person signing such receipt
 should be required to indicate his full name in block letters within brackets below his signature.
 जिस रसीद पर भुगतान किया जाए वह हस्ताक्षर नहीं कर सकता तो भुगतान करने वाला अधिकारी उस भुगतान का
 अमानित करने वाले को लिए कम से कम एक गवाही हो।

If the person paid cannot sign, the payment must be certified by the paying officer
 and at least one witness.

यदि शुद्धतान की एक रुपये 500 रु. से अधिक हो तो 1 रुपया का रसीद टिकट लागता चाहिए और इस टिकट का
 भुगतान पानेवाले को करना चाहिए।

If the amount to be paid more than Rs. 500/- a receipt stamp of 1 rupee must be
 affixed and this stamp must be paid for by the person to whom the amount of receipt is paid.

Armed Forces of India or in similar forces of a Commonwealth country during the period from the 3rd September, 1939 to the 1st April, 1946, which did not earn a service pension under the military rules, shall be allowed to count such service, including all kinds of leave on full rates of pay and sick leave taken during such service, as qualifying service, subject to the following conditions, namely:—

- (a) in the case of a service or post in respect of which a minimum age is fixed for recruitment, no war service rendered below that age shall count as qualifying service;
- (b) no contribution towards or share of pension earned as a result of counting war service rendered in a force of a Commonwealth country shall be claimed from the Government of that country;
- (c) no refund of bonus or gratuity in respect of war service shall be demanded from the Government servant concerned.

(2) War service rendered by a Government servant who was appointed substantively to a civil service or post against vacancies which arose after the 31st December, 1947, shall, subject to the conditions specified in sub-rule (1), be treated as military service as provided in Rule 19.

21. Counting of periods spent on leave

All leave during service for which leave salary is payable [and all extraordinary leave granted on medical certificate] shall count as qualifying service:

Provided that in the case of extraordinary leave [other than extraordinary leave granted on medical certificate] the appointing authority may, at the time of granting such leave, allow the period of that leave to count as qualifying service if such leave is granted to a Government servant—

1. (i) Omitted.

(ii) due to his inability to join or rejoin duty on account of civil commotion; or

(iii) for prosecuting higher scientific and technical studies.

GOVERNMENT OF INDIA'S DECISIONS

(1) Need for making proper entries for treatment of extraordinary leave for pensionary benefits.—Under Rule 21 of the CCS (Pension) Rules, 1972, extraordinary leave granted on medical certificate qualifies for pension. The appointing authority may, at the time of granting extraordinary leave, also allow the period of such leave to count as qualifying for pension if the leave is granted to a Government servant—

1. Inserted by G.I., M.F., Notification No. F. 3 (12)-E. V (A)/73, dated the 5th September, 1973.

2. Deleted by G.I., M.F., Notification No. F. 3 (12)-E. V (A)/73, dated the 5th September, 1973.

4 JUN 2005

APR
REGISTERED DATE 04
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

Filed by
Shoneep

Nirmali Sarma 32
13/5/05

C. P. NO. 32 OF 2004.

IN O. A. No. 288 OF 2000.

Smti. Nirmali Sarma -Petitioner
-Versus-
Sri Atul Bora & ors. -Contemnors

IN THE MATTER OF:

Objection filed by the petitioner
on the compliance report dated
04.05.2005.

The humble objection of the petitioner
on the above noted compliance report:

MOST RESPECTFULLY SHEWETH:

- 1) That petitioner begs to state that the Contemner has sanctioned the amount at different heads but they have not supplied the calculation sheet of pension or other amount as required under Rule 61 of Pension Rule, 1972 (Page 580) and as such the petitioner could not know the actual basis of calculation of Pension and gratuity, however, the petitioner files the

following objections gathering information from the office of the contemner.

2] That the petitioner begs to state that the Hon'ble Tribunal in the judgment directed the Contemner to treat the petitioner's husband to be in service and directed to pay necessary pay and allowances and also to release full retiral benefits. But the Contemner has paid the life time difference of pay of Rs. 3,35,132. It is not clear how they calculated the "life time difference". It may be mentioned that while the petitioner made enquiry at the office of the Contemner she came to know that an amount of Rs. 7,24,066/- was prepared for payment but the Contemner has paid Rs. 3,35,132/- only and a difference of Rs.3,88,934 is yet to be paid. The petitioner further begs to state that petitioner's husband was a Sub-Postmaster at the time of his death. He joined the service in 1973 and died in 1998 and completed 25 years service. His salary was revised in 1986 and in 1996. The Contemner has not paid the dues as per the judgment of the Tribunal and it requires to be revised and paid as per the order of the Tribunal.

Nirupam Sarma

3] That in respect of payment of DCRG the Contemner has not paid the entitled amount. They paid only Rs. 1,37,494/- in two installments while it should have been paid in one installment. The Contemner has calculated the amount by taking 13 years qualified service while the petitioner's husband completed 25 years service and as per Rule 50 of the Pension Rule, 1972, he should have got 33 months' total salary as gratuity. And as per the last pay of the petitioner's husband the amount of gratuity should have been Rs. 3,13,500/- and as such Rs. 1,76,006/- is yet to be paid.

4] That as regards leave salary of 9 months the Contemner has paid only Rs. 53,802/- taking monthly salary as on 07.07.1998 as Rs. 5,978/- whereas on that date the total salary of the petitioner's husband should have been Rs. 9,500/- per month and as such his leave salary should have been Rs. 85,500/-.

5] That as regards payment of pension the petitioner is not in a position to comment as no calculation sheet has been supplied to her.

Nirmal Sarma

Under the circumstances it is most respectfully prayed that the Hon'ble Tribunal will be pleased to consider the matter and direct the Contemner to pay the due amount to the petitioner in terms of the judgment and order of this Hon'ble Tribunal and further be pleased to direct the Contemner to supply a signed copy of the calculation sheet of the above amount.

And pass such order or orders as your Lordship deem fit and proper in the facts and circumstances of the case.

Verification

I, Smt. Nirmali Sarma, W/o late Hem Ch. Sarma, aged about 50 years a resident of Narengi, Guwahati-21 do hereby solemnly affirm and declare that the statement made in the above objection are true to my knowledge and information and I sign this verification on this the 13th day of June, 2005.

Signature.

Nirmali Sarma