

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Contempt Application No. 58 /2001

in O.A. 288/2000

Applicant(s) :- Nisimali Sarma

Respondant(s) :- Ashim Kr. Deori

Advocate for the Applicant :- Abdul Khaleque

Advocate for the Respondant :- C.G.S.E.

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt application has been filed by the counsel for the petitioner praying for punishment to the Contemner for non-compliance of Judgement and order dated 4.7.2001 passed by this Honble Tribunal in O.A. 288/2000.</p> <p>Laid before the Honble Court for further orders.</p> <p><i>5/11/2001</i> Seethan Pillai ^{lm}</p>	<p>5.11.01</p> <p>19.12.01</p> <p>22.11.01</p>	<p>Heard Mr A.Khaleque, learned counsel for the applicant.</p> <p>Issue notice to the respondents to show cause as to why a contempt proceeding shall not be initiated against them for non implementation of the order dated 4.7.2001 passed in O.A.No. 288/2000. Returnable by two weeks.</p> <p>List on 19.11.2001 for show cause and further order.</p> <p>The office note did not indicate as when the notices were sent. Put up on 22.11.01 with complete report.</p> <p>Put up after receipt of service report. List on 10.12.2001 for further order.</p>
<p>Notice has been sent to D/S for serving the Respondent No 1 & 2 by Regd. A.D. to D/No <u>4191 to 4192</u> Dtd <u>12/11/01</u>.</p>		

K. K. Sharma
Member

K. K. Sharma
Member

Vice-Chairman
Vice-Chairman

K. K. Sharma
Member

Vice-Chairman
Vice-Chairman

(2)

① Notices prepared and 10.12.01
Sent to the Respondant
On 12-11-2001 vide
D.No. 4191-4192.

② Service report we
still awaited.

By
21.11.01.

Sri A. Deb Roy, learned Sr. C.G.S.C. submits that against the order dated 4.7.2001 passed in O.A.No. 288/2000, the respondents are approached the High Court. The High Court has stayed the operation of the order dated 4.7.2001 passed in O.A.No. 288/2000. Sri A. Deb Roy, learned Sr. C.G.S.C. is directed to file a copy of the High Court order.

List on 7.1.2002 for order.

K C Ushan
Member

mb

7.1.2002 Heard Mr. A. Khaleque, learned counsel for the applicant and also perused the affidavit filed by the respondents.

It appears that a Writ Petition is filed against the order passed by this Tribunal in O.A. 288 of 2000. In this circumstances, the Contempt Petition stands dropped.

K C Ushan
Member

[Signature]
Vice-Chairman

bb

16.1.2002
Copy of the order
has been sent to the
Office for issuing
the order to the 4/5th
for the parties.
HS
27/1/02

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

5 NOV 2001

गुवाहाटी न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.....GUWAHATI.

Filed by the Petitioner

3/11/01

A. Khalegha

Advocate

11/11/2001

Contempt Petition No. 38 of 2001

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 judgement & order dated 4-7-2001
passed by this Hon'ble Tribunal in O.A.
No.288 of 2000.

- A N D -

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-

1. Sri Ashim Kumar Deuri,
Supdt.of Post Offices,Tinsukia Divn.
Tinsukia,Assam.

contd.....2

Nrs Nirmali Sarma

2. Sri Ajit Narayan Deb Kachari,
Post Master General, Assam Region
Dibrugarh, P.O. Dibrugarh, Assam.

.....Respondents/Contemners

The humble Petition of the
abovenamed applicant-

Most Respectfully Sheweth :-

1. That your applicant is the wife of Late Hem Chandra Sarma who worked as Sub Post Master of Bamun Bari Sub Post Office. Sri Sarma was initially appointed as the Postal Assistant in April, 1973 and he worked in the Tinsukia Head Post Office and after some years he has transferred to Bamun Bari as Sub-Post Master. 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 to 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 Contemner/respondent to pay the leave salary,

contd.....3

Mrs Sarmali Sarma

G.P.F. advance etc. ,but the respondent did not responded to those letters on 30-4-98, Sri Sarma was informed (in reply for voluntarry 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 representation 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 dismissed and urged them pay the voluntarry 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 dismissed 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 Court praying for setting ~~as~~ aside the dismissal of her late husband and for paying the family pensions and other service benifit to her. The said petition was admitted by this Hon'ble Court and numbered

contd.....4

Mrs Nirmali Sarma

as O.A.No.288/2000.In the said O.A.,notices were issued to the respondent and they appeared and contested the case.

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 necessary pay and allowances of deceased Hem Chandra Sarma and also to release the full retiral benefit to the applicant as early as possible preferably within three months from the date of receipt of this order".

Copy of the said Judgement and order is enclosed herewith and marked as Annexure-"A".

7. That after getting the judgement your applicant took a Certified copy of the Judgment and order and sent the same to the Contemner/respondent on 13-7-2001 through registered post and requested them to make the payment at an early date as per the Court's order.

Copy of the letter sending the copy of judgement is enclosed herewith and marked as Annexure-"B".

8. That the applicant begs to submit that the Contemner/respondent received the Hon'ble Tribunal's order on 17-7-20 but uptil now the Contemner/respondent have not taken any

contd.....5

Mrs Spirmati Sarma

steps to carry out the said order, although the Hon'ble Tribunal directed them to make the payment as early as possible preferably within three months.

9. That your applicant begs to state that after giving the copy of judgment and order the applicant personally saw the Contemner/respondent and requested them to pay the dues at an early dates.

10. That the applicant begs to state that inspite of clear direction from the Hon'ble Tribunal the Contemner/respondent have deliberately not complied with the judgement & order dated 4-7-2001.

11. That your applicant begs to state that the respondent/contemner has shown utter disregard, disobedience to the Hon'ble Tribunal and had not earned to carry out the judgment and order dated 4-7-2001, passed by this Hon'ble Tribunal and this amounts to serious contempt of Court. And as such they deserve the punishment for disobedience disregard and disrespect shown to the Hon'ble Tribunal by not implementing the judgement & order dated 4-7-2001 passed in O.A.No.288/2000.

12. That your applicant submits that unless the respondents/contemnors are not held up in a case of contempt of Court, the Contemner will not implement the Judgment & order dated 4-7-2001 passed by this Hon'ble

contd.....6

Mrs Normahi Salma

- 6 -

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 have not yet implemented the judgement & order dated 4-7-2001 passed in O.A.288/2000.

13. That your applicant submits that the respondent/Contemner deliberately and intentionally had disobeyed and dishonoured the judgement 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.

14. 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/respondent 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.

Very respectfully
Sd/-

contd.....7

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- 7 -

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, *why* they should not be punished for Contempt of Court.

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

Nrs. *Pratima Sarma*

- 8 - 10

DRAFT CHARGE

The applicant aggrieved for non-compliance of the Hon'ble Tribunal's Judgement & Order dated 4-7-2001 passed in O.A.No.288/2000. The Contemner/respondents have willfully, deliberately violated the judgement & order passed in O.A.No.288/2000 by not implementing the direction contained therein till date. Accordingly the respondent/contemner is 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.

contd..Affidavit.

Mrs Alhamati Sharma

9- 11

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 above Contempt petition and as such I am fully conversant with the facts and circumstances of the case.

2. That the statement made in paragraph 1, 2 and 3 are true to my knowledge and those made in para 4, 5, 6 being matter of records are true to my information derived therefrom which I believe to be true and rest are my humble submission before this Hon'ble Tribunal.

And I sign this Affidavit on this the 1st day of November 2001 at Gauhati.

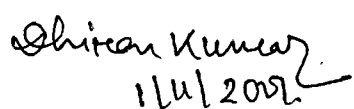
Identified by me-


1/11/2001
Advocate, Guwahati

Mrs Nirmali Sarma

D e p o n e n t

Solemnly affirmed and declared before me by the deponent who is identified by Shri A. Khargone Advocate on this the 1st day of November 2001 at Gauhati.


1/11/2001
Advocate

SL. No. 413
12

-10-

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, ^{Asst. Secy.} ^{DMT}
Department of Post Posts,
Government of India, ^{Asst. Secy.}
New Delhi.Respondents
2. The Superintendent of Post Office,
Tinsukia Division,
Tinsukia, Assam.
3. The Director of Postal Services (HQ),
Guwahati.Respondents

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

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 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.

*Attended
Nirmali
Adv
1/14*

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

the applicant submitted a number of representations asking for 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.....



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 30.11.1999, 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 DCRG 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.



Admitted
11/2/00
Hem
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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 enquiry.



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.....



Attested
1/14/89

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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 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 the life of the deceased Hem Chandra Sarma.

7. 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

प्रमाणित प्रतिलिपि

nkm

Section Officer (A)
आयुक्त अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक आयोग
Guwahati Bench, Guwahati
गुवाहाटी न्यायपीठ, गुवाहाटी

11/7/2007

16
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Regd. A/D

Date : 13.7.2001.

To,
The Supdt. of Post Offices
Tinsukia Division,
Tinsukia, Pin- 786125.

Sub : Payment of retirement benefit
to Late Hem ch. Barma Ex. SPM
Bamunbari

Ref : Central Administrative Tribunals
order in O.A. No. 288/2000.

Sir,

Most humbly and respectfully I beg to submit
herewith a certified copy of the order passed by the
Hon'ble Central Administrative Tribunal in O.A. No.
288/2001.

As per the said Court's order my late husband is
entitled to get all the retirement benefit till his
death. I now therefore request you kindly to pay me
the retirement benefit of my late husband i.e., ^{arrears salary,}
Gratuity, C.G.L.I.S. money, G.P.F. money, and Family
pension etc. at ~~an~~ an early date I further request
you kindly to arrange the payment of the above money
of the Guwahati G.P.O.

Yours faithfully,

Mrs Nirmali Sarma

(Smt. Nirmali Sarma)

HSG II SA O/O the

P & T Dispensary,

Panbazar, Guwahati-1.

Encl:- as above

Copy to:- The Post master general, Assam Region,
Dibrugarh, for forwarding of information and necessary
action.

Attested
1/11/2001