

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

C.P.-27/02 ordersheet pg-1 to 2 INDEX
Dropped Date 12/09/02

O.A./T.A No. 198/2001
R.A/C.P No. 27/2002
E.P/M.A No.

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2. Judgment/Order dtd. 23/11/2001 Pg. 1 to 3 allowed
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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

ORDER SHEET

APPLICATION NO198.....OF 2001.

Applicant (S) *B. Hazarika*

Respondent (S) *WCI 2005*

Advocate for Applicants (s) *Mr S. Ali*
MS B. Seal.

Advocate for Respondent (s)

Case.

Notes of the Registry	Date	Order of the Tribunal
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25.5.2001

Heard Mr S. Ali, learned Sr. counsel for the applicant. The application is admitted. Call for the records. List for orders on 27.6.01.

[Signature]
Vice-Chairman

Application is in form
of ~~Componation~~
Petition is filed vide
M. P. No. C.F.
for Rs. 50/- and vide
IPO/BD No 69 792647
Dated.....24/5/2001

[Signature]
Dy. Registrar.

nkm

NB
25/5/2001

27.6.01

Mr.A. Deb Roy, learned Sr. C.G.S.C. prays for time to file written statement. List on 1.8.01 for filing of written statement and further orders.

[Signature]
Vice-Chairman

*Requists has been
filed*

NS
24/5/2001

*Notice prepared and sent to
DLS for issuing the Respondent
No 1 to 5 by Regd Ad vide
DNo 2023 & 2027 dated 13/6/07*

lm

① Service report are still
awaited.

MS
26.6.01

1
No written statement 1.8.01
has been filed.

By
30.8.01

List on 31.8.01 to enable the respondents to file written statement.


Vice-Chairman


lm

31.8.01

List on 26.9.2001 to enable the respondents to file written statement.

By Order

bb


21/9

22 26.9.01

No written statement so far filed despite granting of time.


List for hearing on 23.11.01. In the meantime the respondents may file written statement, if any, within 3 weeks from today.


Vice-Chairman

pg

23.11.2001

Heard the learned counsel for the parties
Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.


Vice-Chairman

nk m

7/12/2001

Copy of the budget
has been sent to the
office for issuing.
The sum to the
applicant as well as
to decrease for the
recipients.

HS

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXXX~~ NO. .198 of 2001

DATE OF DECISION 23.11.2001

Shri Bhogeswar Hazarika

APPLICANT(S)

Ms B. Seal

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

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 ?

5.

Judgment delivered by Hon'ble Vice-Chairman

NO

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.198 of 2001

Date of decision: This the 23rd day of November 2001

Shri Bhogeswar Hazarika,
Resident of Bordoloi Nagar,
P.O. Tinsukia, Distt. Tinsukia,
Assam.

.....Applicant

By Advocate Ms B. Seal.

- versus -

- 1, The Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication,
New Delhi.
2. The Chief General Manager,
Assam Circle,
Guwahati.
3. The General Manager,
Telecom District, Dibrugarh,
Assam.
4. The Divisional Engineer, Administration,
Office of the General Manager, Telcom,
Dibrugarh, Assam.
5. The Sr. Accounts Officer (Cash),
Office of the G.M.D.T., Telecom,
Dibrugarh.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This is the third round of litigation. The applicant was working as a Telephone Operator. He submitted his resignation and thereafter withdrew the same. An order was passed on 13.8.1997 permitting the applicant to withdraw his resignation on certain conditions mentioned therein. Thereafter the applicant joined in his duties. By order dated 21.8.1997 the respondent authority cancelled the acceptance of the withdrawal of resignation vide letter dated 13.8.1997 on the ground that it was done through inadvertence. The applicant moved this Tribunal for the second time in O.A.No.275 of 1997. By order dated 6.1.1998 the order dated 21.8.1997 cancelling the acceptance of withdrawal of

resignation as well as the order 12.9.1997 were set aside. The Tribunal also ordered that the applicant would be deemed to be in service and he would be entitled to all service benefits, leaving it open to the respondents to act as per law as to the withdrawal of resignation after giving opportunity of hearing to the applicant.

2. Pursuant to the order of the Tribunal dated 6.1.1998 in the aforementioned O.A., the Divisional Engineer (Administration) by order dated 20.9.2000 ordered for giving the pay benefit to the applicant with effect from 5.8.1986 to 12.8.1997. In the said order the Divisional Engineer (Administration) also ordered for fixation of the applicant's pay as per norms of the Department. The applicant moved the present application again stating that despite the Tribunal's order and despite the order of the Divisional Engineer (Administration) dated 20.9.2000 the applicant was not paid his salary nor has the respondent authority acted as per the order dated 20.9.2000.

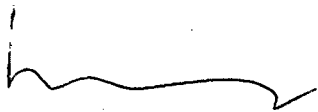
3. No written statement has been filed in this proceeding. Mr A. Deb Roy, learned Sr. C.G.S.C. today also sought for accommodation. Already we have granted time to the respondents on numerous occasions. I was not inclined to give more time. Mr Deb roy referred to a communication dated 13.8.2001 sent by the Assistant General Manager(A), Bharat Sanchar Nigam Limited addressed to the General Manager, Dibrugarh Telecom District, Dibrugarh requesting the General Manager to examine the matter afresh in the light of the Judgment of the Tribunal dated 6.1.1998 and pass necessary orders after giving full opportunity to the applicant to present his case. A copy of the said communication was sent to Mr A. Deb Roy for praying for time before the Tribunal on the aforesaid ground. I am not impressed with the prayer of Mr Deb Roy. The issue in this application was pertaining to giving pay and allowances and other service benefits to the applicant as per law. By the Judgment and Order dated 6.1.1998 in O.A.No.275/1997 the Tribunal set aside the order dated 21.8.1997 and 12.9.1997 and it was held that the applicant would be deemed to be in service and the Tribunal also held that the applicant would be entitled to all the service benefits.

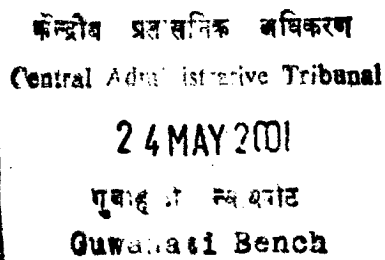
There.....

There cannot be any justification for not paying him the salary and allowances and to provide him the other service benefits. Even if the subject matter was under review it would not absolve the respondents from its responsibilities from paying the applicant his pay and allowances and other service benefits as he is/was entitled under the law. The applicant has also asserted that despite the order of the Tribunal dated 6.1.1998 the applicant's case for promotion was not considered though he was entitled to be so considered. As per the order of the Tribunal dated 6.1.1998 the applicant was deemed to be in service all throughout and it was held that he would be entitled to get all the benefits. The benefits also included the right of the applicant to be considered for promotion.

4. In the facts and circumstances of the case the respondents are directed to pay full salary and allowances to the applicant admissible to him and other service benefits as per law within three months from the date of receipt of the order if the salary and allowances and other service benefits have not already been provided to him.

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


(D. N. CHOWDHURY)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BENCH, GUWAHATI.

(An application under section 19 of the Central
Administrative Tribunal Act, 1985)

Original Application No. 198/2001.

Shri Bhogeswar Hazarika Applicant.

-VRS-

The Union of India & Ors Respondents.

I N D E X

<u>Sl.No.</u>	<u>Documents</u>	<u>Page Nos</u>
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Filed by:-

Bashari Seal.
24/5/2001.

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
AT GUWAHATI.

An application under Section 19 of the
Central Administrative Tribunal Act, 1985.

ORIGINAL APPLICATION NO. 198/2001.

BETWEEN

Sri Bhogeswar Hazarika

..... Applicant.

-Vrs-

The Union of India & Ors.

..... Respondents.

1. DETAILS OF THE APPLICANT:-

Shri Bhogeswar Hazarika,
S/o Late Ghain Ch. Hazarika,
Resident of Bordoloi Nagar,
P.O. Tinsukia, Dist. Tinsukia, Assam.

2. DETAILS OF THE RESPONDENTS :-

1. The Union of India, represented by
the Secretary to the Govt. of India,
Ministry of Communication, New Delhi.
2. The Chief General Manager, Assam Circle,
Guwahati-7.
3. The General Manager, Telecom District,
Dibrugarh, Assam.
4. The Divisional Engineer, Administration,
Office of the General Manager, Telecom,
Dibrugarh, Assam.
5. The Sr. Accounts Officer (Cash),
Office of the G.M.D.T., Telecom, Dibrugarh.

3. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS FILED/MADE:-

- i) Non payment of regular salary to the
applicant as per judgment and order dated
6.1.98 passed by the Central Administrative

Contd....2

Sri. Bhogeswar Hazarika.

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Filed by Mr.
Petitioner through
me.
Barakati Seal
Advocate
24/5/2001.

Tribunal, in O.A. No.275/97.

ii) Non compliance of the order contained in No.QH-29/31 dated 20.9.2000 issued by the Divisional Engineer (Administration), O/O the General Manager, Telecom, Dibrugarh.

iii) Letter No.QH-87/Inc/TO/10 dated 13.11.2000 issued by the Sr. Accounts Officer (Cash), Office of the GMDT, Dibrugarh, Assam.

4. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the application is within the jurisdiction of this Hon'ble Tribunal.

5. LIMITATION :-

The applicant further declares that this applications filed by the applicant before this Hon'ble Tribunal is within the time limit prescribed under section 21 of the Central Administrative Tribunal, 1985.

6. FACTS OF THE CASE :-

6.1. That the applicant is a citizen of India and a permanent resident of Bardoloi Nagar, Tinsukia under P.S. Tinsukia in the district of Tinsukia and as such he is entitled to all the rights privileges guaranteed under the Constitution of India.

6.2. That your applicant was initially appointed as Telephone Operator by the Divisional Engineer, Telegraph Department of Telecom, Dibrugarh and posted at Nagaon on 22.7.75. On 2.8.77 the applicant was transferred to Tinsukia under S.D.O. Telephone and thereafter on 24.6.86 he was again transferred to Saidiya, Chapakhowa under S.D.O. Telephone, Tinsukia.

Sri. Bhogewax Hazarika

6.3. That, when the applicant was working at Saidiya Chapakhowa, he became ill and he took sick leave with effect from 11.7.86 to 4.8.86. Be it stated that at the same time the applicant's mother was also in bed ridden condition due to old age. As the applicant was not cured fully, he submitted an application for further extension of his leave period, but the same was refused by the higher authority and hence finding no other way, the applicant submitted his resignation letter on 4.8.86 considering his own health condition and his mother's bed ridden condition.

6.4. That, the applicant states that though he submitted his resignation on 4.8.86, till date the same has neither been accepted by the authority nor any dues like provident fund, D.C.R.G. etc. has been paid to him.

6.5. That, as his resignation has not been accepted till date, the applicant decided to join his duty and accordingly he submitted an application on 12.7.94 to the Telecom District Engineer, Dibrugarh expressing his willingness to withdraw his resignation requesting to allow him to resume his duty. (Annexure-1 is the copy of the said application dated 12.7.94).

6.6. That, though the applicant submitted his application for withdrawal of resignation on 12.7.94, the Telecom District Engineer, Dibrugarh did not take any action over the issue and ultimately on enquiry of the applicant, TDE, Dibrugarh asked him to approach the Chief General Manager, Telecom, Guwahati. Accordingly, he submitted the application on 28.6.95 to the Chief General Manager, Telecom, Guwahati expressing his willingness with request to pass necessary order for resumption of duty.

Annexure.2 is the photocopy of the said application dated 28.6.95.

Sri. Bhogeswar Hazarika.

6.7. That, inspite of the representation, the authority has neither took any action whatsoever not any intimation was made to the applicant and hence on 30.12.96, the applicant submitted another representation requesting to look into the matter so that he may resume his duty.

Annexure-3 is the photocopy of the said application dated 30.12.96.~~is~~

6.8. That, the applicant states that though he submitted the applications expressing his willingness for withdrawal of his resignation on 12.7.94, 28.6.95 and 30.12.96 and also personally approached the respondents for a number of times with same request, the respondents are sitting silently keeping the matter handing and accordingly on each and every day after the submission of his application for withdrawal of the resignation, the cause of action arises in favour of the applicant.

6.9. That, as the respondents failed to perform their duty to consider applicant's application for withdrawal of resignation, so he was compelled to approach this Hon'ble Tribunal vide O.A. No.91/97.

6.10. That in O.A. No.91/97 the respondents appeared and after hearing the parties the Hon'ble Tribunal vide judgment and order dated 26.6.97 allowed the application with a direction to consider the representation submitted by the applicant and passed a reasoned order thereafter. The Hon'ble Tribunal also directed that while disposing of the representation of

Sd/- Bhogendra Hazarika

the applicant the respondents shall follow the decision of the Apex Court and also of the Gauhati High Court. It was also directed that the applicant may file a fresh representation giving details of the case within 3 weeks from the date of judgement.

Annexure.4 is the photocopy of the judgment and order dated 26.6.97 passed by the Hon'ble Tribunal in O.A. 91/97.

6.11. That as per Annexure-4 your applicant filed a fresh representation to the Division Engineer, Telecom, Dibrugarh and after receipt of the representation the applicant was allowed to resume his duty and accordingly the applicant joined his duty on 14.8.97 and was working till 20.8.97. The Divisional Engineer, (P&A) vide letter dated 21.8.97 under Memo No. ~~21x8x97~~ QH.29/15 ~~xxx~~ cancelled the letter No. QH.29/31 dated 13.8.97 by which the applicant was allowed to resume his duty.

Annexure-5 is the photocopy of the letter No. QH.29/15 dated 21.8.97 issued by the Division Engineer the Respondent No.4.

6.12. That your applicant being highly aggrieved by the Annexure-5 filed O.A. No. 275/97 challenging the cancellation of the joining of the applicant.

6.13. That in O.A. No. 275/97 the respondents appeared and contested the case. Ultimately after

Sri. Bhogswar Hazarika.

hearing both parties the Hon'ble Tribunal vide judgment and order dated 6.1.98 allowed O.A. No.275/97 and held that "In view of the above we are of the opinion that the Annexure-G order dated 21.8.97 and Annexure-H order dated 12.9.97 cannot sustain in law. Accordingly we set aside both the orders. The applicant shall be deemed to be in service and he shall be entitled to get all the benefits as if he was in service all through. However, if the respondents find that the acceptance of the withdrawal of resignation was not in accordance with law they may take up the matter afresh and pass necessary orders in accordance with law after giving opportunity of hearing to the applicant. If the applicant is still aggrieved by the decision of the authority he may approach the appropriate forum, if so advised."

Annexure-6 is the photocopy of the judgment and order dated 6.1.98 passed by the Hon'ble Tribunal in O.A. No.275/97.

6.14. That at Annexure-6, the Hon'ble Tribunal categorically stated that the applicant shall be deemed to be in service and he shall be entitled to get all the benefits as if he was in service all through. The Hon'ble Tribunal also gave direction that if the respondents find that the acceptance of the withdrawal of the resignation was not in accordance with law, they may take the matter afresh and pass necessary order in accordance with law ~~and~~ after giving opportunity of hearing to the applicant. But the respondents did not take any action against the

Contd....7

Dr. Bhogendra Hazarika

appellant as per direction of the Hon'ble Tribunal.

6.15. That as per Annexure-6 the applicant was allowed to join on 16.4.98 and ^{still} ~~while~~ he is continuing in service as Sr. Telephone Operator Assistant.

6.16. That the Hon'ble Tribunal vide Annexure-6 directed that the applicant shall be entitled to get all the service benefits as if he was in service all through.

6.17. That the respondents after receipt of the copy of the judgment in O.A. No.275/97 did not take any steps for payment of his salary and promotion in service, so he filed several representation for the same.

6.18. That ultimately the Division Engineer, Administration, office of the G.M.D.T., Dibrugarh, vide No.QH.29/31 dated 20.9.2000 decided to give salary to the applicant w.e.f. 15.8.86 to 12.8.87⁹⁷ i.e. left *Feb* out the period keeping in view of verdict of CAT, Guwahati. Pay fixation may be done for the period as per norms of the Department accordingly.

Annexure-7 is the photo copy of the order No.QH.29/31 dated 20.9.2000 issued by the Division Engineer(Admn) office of the GMDT, Dibrugarh.

6.19. That on receipt of the Annexure-7 the office of the General Manager, only fixed up annual increment of the applicant w.e.f. 5.8.86 to 12.8.87⁹⁷ *Feb* and current also but the monthly basic pay from those days were not paid but have calculated alongwith the requisite pay scale and hence the applicant is compelled

Contd.....8

Sri. Bhageswar Hingora

to file this original application before this Hon'ble Tribunal for appropriate direction to the General Manager, Divisional Engineer, (Admn) and Sr. Accounts Officer (Cash) i.e. the Respondents 2, 4 and 5 to pay the arrear salary of the applicant w.e.f. 5.8.86.

Annexure-8 is the photocopy of the statement of fixation of pay under Central Civil Service Revised Pay Scale Rules alongwith increment Certificate.

6.20. That as per direction of the Hon'ble Tribunal vide Annexure-6 the applicant was also entitled to promotion on the basis of the seniority and undergoing training etc. The applicant has completed 16 years of service for (One Time Bound Promotion) OTBP promotion and that promotion has also ^{not} been given to the applicant for which it is necessary to give direction to the respondents to give him OTBP promotion and others w.e.f. 1991.

6.21. That your applicant begs to state that for not giving the pay scale as directed by this Hon'ble Tribunal and also OTB Promotion and the applicant has been suffering a lot due to negligence of the Department.

Contd.....9.

Sd/- Chogema Hazenka

7. GROUND'S FOR RELIEF WITH LEGAL PROVISION:-

7.1. For that in view of the judgment and orders passed by the Hon'ble Tribunal in the above original applications, the applicant is entitled to all the service benefits including the arrear monthly salaries w.e.f. 5.8.86 to 12.3.87. 97 *Ch*

7.2. For that the respondents knowing fully well the applicant is entitled to above benefits, they have intentionally and with a motive behind help up the applicant's monthly arrear salaries and hence it is a fit case for giving appropriate direction to the respondents to clear his monthly outstanding salaries at an early date.

7.3. For that the respondents have not yet gone to the High Court against the Hon'ble Tribunal's judgment and order passed in the above original applications and the judgement passed in the above original applications are confirmed and hence the respondents should pay the monthly salaries at an early date.

7.4. For that the respondents have done great injustice to the applicant by not paying his due arrear salaries and hence it is a fit case for giving appropriate direction to the respondents to pay the outstanding salaries at an early date to the applicant.

7.5. For that as per direction the applicant is also entitled to get promotion as per rules and the respondents have not promoted the applicant to his next OTB Promotion has also done injustice and

Contd.....10

Sri. Bhogewar Hingika.

illegality and as a result he has been deprived of his higher emoluments as promoted employee and hence it is a fit case for giving appropriate direction to the respondents to promote him to OTB promotion.

7.6. For that the respondents having deliberately doing injustice to the applicant it is a fit case for giving appropriate direction to the respondents to clear his outstanding dues and to promote him to OTB Promotion scale.

7.7. For that OTB promotion is given after completion of 16 years of service but the applicant has by this time completed ^{more than} 16 yrs of service, so he is entitled to OTB promotion but the respondents have not done this deliberately and hence it is a fit case for giving OTB promotion to the applicant.

8. DETAILS OF REMEDIES EXHAUSTED :-

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

9. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT OR TRIBUNAL:-

That the applicant declares that no case is now pending before any court or Tribunal regarding the same subjectmatter.

10. RELIEF SOUGHT FOR :-

Under the above facts and circumstances the applicant prays for the following reliefs:-

-i) In view of the Hon'ble Tribunal Judgments referred above the respondents particularly the

Contd.....11

Sri. Bhagwan Hazenka

Respondent Nos.3, 4 and 5 be directed to clear the outstanding dues and to give the applicant OTB Promotion.

ii) any other reliefs or reliefs entitled to the applicant may also be granted.

11. Particulars of the IPO:-

I.P.O. No. 66792647.

Date : 24/5/2001.

Payable at : Guwahati.

12. List of Enclosures :

As stated above.

Verification.....

Sd/- Bhogeswar Hazarika.

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VERIFICATION

I, Sri Bhogeswar Hazarika, S/o Late Ghain Ch. Hazarika, resident of Bardoloi Nagar, Tinsukia, P.S. & Dist Tinsukia, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 6.1., 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.7, 6.15 are true to my knowledge and those made in paragraphs 6.10, 6.11, 6.13, 6.14, 6.16, 6.17, 6.18, 6.19 being matters of records are true to my information and the rest are my humble submissions made before this Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the th
day of May, 2001 at Guwahati.

Sri. Bhogeswar Hazarika
DECLARENT

Sri. Bhogeswar Hazarika

ANNEXURE-1

To,
The T.D.E.,
DR-Dn., Dibrugarh
(Through Proper channel)

Dated, Tinsukia 12.7.94.

Sub : Withdrawal of resignation letter and permission
to resume the duty as T/O at Tinsukia.

Sir,

With due respect and humble submissions I beg
to lay the following few lines for favour of your kind
sympathetic order.

That Sir, due to some personal grounds I
tendered my resignation from service on 4.8.86 and same
is still lying unaccepted at your end as I have to refund
some dues such as excess pay and allowances due to E.O.L.

Now, circumstances compelled me to withdraw my
resignation letter tendered by me and request your
honour kindly to permit me to resume in my duty at
Tinsukia PRK at an earliest date.

I further request your honour kindly to recover
the excess payments paid to me from my salaries in insta-
lation basis.

Under the above circumstances, I request your
kind honour and sympathetic order at your earliest con-
venience and thereby oblige.

Yours faithfully,

Sd/-

(Shri Bhogeswar Hazarika)

T/O, Tinsukia

Date 12.7.94.

*Attested by
Bashagiri Seal
Advocate*

To,
The C.G.M.T.,
Assam Circle, Guwahati.

Dated, Tinsukia 28.6.95.

(Through proper Channel)

Sub :- Resignation case of Shri Bhogeswar Hazarika
TO, Tinsukia regarding.

Sir,

With due respect and humble submission, I beg to lay before you the following few lines for favour of sympathetic consideration and order please.

That Sir, I was transferred to Saidiya Chapakhows in 1986.. Accordingly, I carried out the order of the Deptt. and joined as T.O. Saidiya. After few days of my service I felt ill there. I had to come to Tinsukia after submitting a leave application alongwith medical certificate to the authority. But irony of fate, my leave was not granted.

That Sir, I had contacted my higher authority and put up all my grievances including leave, salary etc. before the tuahority, also mentioned that it was not possible on the part of a poor employee to maintain 3(three) establishments i.e. one is at Tinsukia where my wife and 2(two) school going childresns are styng, other is at Nowgaon where my old ailing mother is staying, So the authority was requested repeatedly to take me back to Tinsukia. I was simply given verbal assurance but not done any time. At this stage, I had no way but to submit my resignation.

I hope, Had submitted my resignation to the D.T.E. DR in 1986.

That Sir, on enquiry, I have come to know that my resignation was not accepted by the Deptt. So, I appealed to T.D.E. DR. on 12.7.94 for withdrawal of my

Contd.....2

Attested by
Barhadi Sed.
Advocate-

resignation and allow me to resume my duty as T.O. at Tinsukia. But nothing has been intimated to me as yet. (The photostate copy of my representation is enclosed herewith).

Being disappointed, I beg to submit my representation to your honour for kind consideration and order for resumption of duty as T.O. at Tinsukia and save my starving family. This act of your kindness I shall remain ever grateful to you.

Yours faithfully,

sd/-

(Bhogeswar Hazarika)

28.6.95

Copy to:-

1. The Dy. T.D.M., Dibrugarh for information and necessary action please.

Advance copy to the C.G.M.T., Assam, Guwahati for favour of his kind perusal and necessary action please.

(Bhogeswar Hazarika)

To
The C.G.M.T.,
Assam Circle, Guwahati.

(Through proper Channel)

Sub : Resignation case of Shri Bhogeswar Hazarika,
T.O. Tinsukia regarding.

R f : My representation dated 28.6.95.

Sir,

Kindly refer to my representation cited above,
forwarded to the T.D.M. Dibrugarh by the S.D.O. Phones,
Tinsukia vide his letter No.Q-63/Loose/3 dated
6.7.95 in which I have requested for an order for
resumption of duty as T.O. at Tinsukia, as my re-
signation was not accepted by the Divisional Office,
Regretably, it is stated that nothing has been
intimated to me as yet.

You are requested kindly to look into the
matter and pass an order for resumption of duty as
T.O. at Tinsukia so that I may be able to resume my
duty and support myself and my family members and
I shall be grateful to you for this.

Yours faithfully,

Sd/-

(Bhogesar Hazarika)

T.O. Telephone Exchange
Tinsukia,

Dated 30.12.96.

Advance copy to the C.G.M.T., Guwahati for information
and necessary action please.

(Bhogeswar Hazarika)

Attested by
Baskar Seal.
Advocate
29/5/2001.

17 -

Annex-4
25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 91 of 1997.

Date of order : This the 26th day of June, 1997.

The Hon'ble Justice Shri D.N. Baruah, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Administrative Member.

Shri Bhogeswar Hazarika,
S/o Late Ghain Ch. Hazarika
resident of Bordoloi Nagar,
P.O. Tinsukia,
District-Tinsukia (Assam)

....Applicant.

-versus-

1. Union of India represented by
the Secretary, Department of Telecommunication,
Govt. of India,
New Delhi.
2. Chief General Manager (Telegraph)
Assam Circle,
Guwahati.
3. Telecom District Manager,
Dibrugarh.
4. Telephone Divisional Engineer,
Dibrugarh.

....Respondents.

ORDER

BARUAH J. (V.C.).

In this application the applicant has prayed for issuance of a direction to allow the applicant to resume his duties as he has already withdrawn the letter of Resignation. In this connection he submitted three representations Annexures A, B and C to the Chief General Manager, Telecommunications. In spite of those representations the applicant has not been allowed to resume his duties. In the present application...

*Attended by
Baruah's Seal
Advocate*

the time of moving of this application we had requested Mr. S. Ali, learned Sr. C.G.S.C. to receive instructions.

2. Heard Mr. Ali, Sr. C.G.S.C. appearing on behalf of the respondents. He submits that the resignation which was submitted by the applicant was later on withdrawn. Till then, the letter of resignation had not been accepted. The learned counsel for the applicant submits that in the eye of law there was no resignation. Mr. Ali also confirms the same. The representations also have not been disposed of till now.

3. Considering the facts and circumstances of the case we are of the opinion that respondents should consider the representation and pass a reasoned order thereafter. While disposing the representation of the applicant the respondents shall follow the decision of the Apex Court and also of the Gauhati High Court. The applicant may file a fresh representation giving details of his case within three weeks from today. If such representation is filed by the applicant, such representation shall also be taken into consideration while disposing of the matter regarding withdrawal. This must be done within a period of two months from the date of submission of representation.

The final Application is disposed of.

Considering the facts and circumstances of the case we make no order as to costs.

SM/VICE CHAIRMAN
SM/SECRET (A)

17/7/77

TRUE COPY

Regional Magistrate (M)
Control Administration Division
Gauhati Bench

-19-

Annex-5.

24

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER : DIBRUGARH

Memo. No. QH - 29 /

Dated DR, the 21-8-97

Sub :- Withdrawal of resignation & permission for resumption in duties.

The inadvertant issue of this office letter No. QH - 29 / 13 dated 13-8-97 on the above subject to Sri B. Hazarika, TOA(P) of Chapakhowa Telephone Exchange under SDOT, Doomdooma is hereby treated as cancelled.

Further orders in this regard will be issued in accordance with the decision of the Hon'ble C.A.T., Guwahati Bench vide it's order dated 26-6-97.

sdf-
(N. N. KACHARI)
Divisional Engineer (P&A)
O/O the Telecom District Manager
Dibrugarh.

Memo. No. QH - 29 / 15

Dated DR, the 21-8-97

- Copy to :-
- (1) the Chief G.M.Telecom, Assam, Guwahati for kind information
 - (2) Sri Bhogeswar Hazarika, TOA(P), Chapakhowa Telephone Exchange under SDOT, Doomdooma.
 - (3) the SDOT, Doomdooma for information and necessary action.
 - (4) the Asstt. Accounts Officer (Bill) O/O TDM/DR for information and necessary action
 - (5) File No. E-15 / GL
 - (6) " " E-17 / Stt
 - (7) " " E-49 / Justification

Divisional Engineer (P&A)
O/O Telecom District Manager, Dibrugarh.

Received from Dept. meml. person
- Book on - 27-8-97
At 13:15 hrs.
C.P.R. Telephone
Exchange Sadiya.
Attested by
Barbara Seal
Jalvo Cate.

through
SDOT / 2 am

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.275 of 1997

Date of decision: This the 6th day of January 1998

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Bhogeswar Hazarika,
Resident of Bordoloi Nagar,
P.O. & District - Tinsukia.

.....Applicant

By Advocates Mr B.K. Sharma and Mr A.K. Roy.

-versus-

1. The Union of India, represented by the
Secretary, Department of Telecommunication,
Government of India, New Delhi.

2. The Chief General Manager (Telegraph),
Assam Circle, Guwahati.

3. The Telephone Divisional Engineer,
Dibrugarh.

4. The Telecom District Manager,
Dibrugarh.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant challenging the Annexure G order dated 21.8.1997 issued by the Divisional Engineer (P&A), Office of the Telecom District Manager, Dibrugarh, by which Annexure F order dated 13.8.1997 permitting withdrawal of the resignation was cancelled and also Annexure H order dated 12.9.1997 issued by the General Manager, Telecom, Assam Circle, Guwahati.

2. Facts for the purpose of disposal of this case are:

The applicant, at the material time was working as Telephone Operator in the Department of Telecommunication.

For certain reasons he had to submit his resignation on

Attested by
Deputy
Advocate
Seal

4.8.1986. The resignation was not accepted by the authority and there was no communication between the authority and the applicant. As a result, the applicant remained in service for more than eight years. Situated thus, the applicant submitted Annexure A representation dated 12.7.1994 by which he wanted to withdraw his resignation letter. When this was not done the applicant approached this Tribunal by filing Original Application No.91 of 1992. Before approaching this Tribunal the applicant also filed Annexure B representation dated 28.6.1995 and this Tribunal directed the respondents to dispose of the said representation. It was further directed that while disposing of the representation the authority should follow the decisions of the Apex Court and also of the Gauhati High Court. The Tribunal also directed the applicant to file a fresh representation giving details of his case within three weeks from the date of the said order and if such representation was filed by the applicant within the time prescribed, the representation was also directed to be taken into consideration by the respondents while disposing of the matter regarding withdrawal of resignation.

3. Pursuant to the order dated 26.6.1997 passed by this Tribunal in the aforesaid original application, the applicant filed Annexure E representation dated 8.7.1997 giving details of his case. The applicant also cited decisions of the Apex Court in (i) Moti Ram -vs- Param Dev, reported in AIR (1993) SC 1662, (ii) Central Inland Water Transport Corporation Ltd. -vs- Brojo Nath Ganguly, reported in AIR (1986) SC 1571 and also to a decision reported in 1988 SLJ (1) 509.

3. Considering all these the Annexure F letter was issued by the Divisional Engineer (P&A) on 13.8.1997. From this letter it appears that the learned Sr. C.G.S.C. gave his written opinion regarding acceptance of withdrawal of resignation.....

resignation and thereafter Annexure F order dated 13.8.1997 was issued permitting withdrawal of resignation on certain conditions mentioned therein. Thereafter, the applicant was allowed to join duties and the applicant, accordingly joined duties and worked for more than twelve days. On 21.8.1997 the Divisional Engineer (P&A) issued the Annexure G letter cancelling the acceptance of the withdrawal of resignation as it was done through inadvertence. We do not understand how and why Annexure F letter dated 13.8.1997 could be issued through inadvertence. The said Annexure F letter shows that the withdrawal of resignation was accepted on the grounds mentioned in therein. The impugned Annexure G order dated 21.8.1997 does not give any reason as to how Annexure F letter dated 13.8.1997 could be passed inadvertently. Besides, the authority having accepted the withdrawal of resignation and having allowed the applicant to work for more than twelve days, Annexure G order dated 21.8.1997 and Annexure H order dated 12.9.1997 were passed without giving any opportunity of hearing to the applicant which was in complete violation of the principles of natural justice or for that matter Article 311(2) of the Constitution. In this connection we have heard Mr B.K. Sharma, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C. Mr Sharma submits that this was done without affording reasonable opportunity of hearing to the applicant in utter violation of the principles of natural justice. Mr Ali also does not dispute the same.

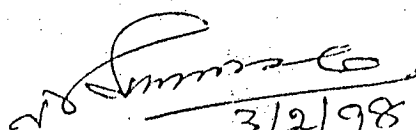
3. In view of the above we are of the opinion that the Annexures G order dated 21.8.1997 and Annexure H order dated 12.9.1997 cannot sustain in law. Accordingly we set aside both the orders. The applicant shall be deemed to be

in service and he shall be entitled to get all the benefits as if he was in service all through. However, if the respondents find that the acceptance of the withdrawal of resignation was not in accordance with law they may take up the matter afresh and pass necessary orders in accordance with law after giving opportunity of hearing to the applicant. If the applicant is still aggrieved by the decision of the authority he may approach the appropriate forum, if so advised.

4. The application is accordingly disposed of. However, considering the facts and circumstances of the case we make no order as to costs.

Sd/- VICE CHAIRMAN
Sd/- MEMBER(A)

Certified to be true Copy
সত্যি প্রমাণিত


3/2/98

Section Officer (A)
General Administration Tribunal
Circuit Bench, Guwahati
Assam

3/2/98

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Annex - 4

32

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

OFFICE OF THE GENERAL MANAGER: TELECOM: DIBRUGARH:

No. RH-29/21

Dated, 20th September, 2000.

O R D E R

As per verdict of Hon'ble CAT, Guwahati, O.A. No. 275/97 Sri B. Hazarika, T.O. was allowed to resume duty and accordingly pay was fixed taking effect from 13th August, 1997, but the service was allowed by Hon'ble CAT all through i.e., from the date of withdrawal of resignation for which a representation from the official is received.

On going through the details of the official his pay benefit may be effected w.e.f. 5th August, 1986 to 12th Aug. 97 i.e., left out period keeping in view the verdict of CAT, Guwahati. Pay fixation may be done for the period as per norms of the Department accordingly.

Sd/-
Divisional Engineer (Admin)
O/O The General Manager,
Telecom, Dibrugarh - Assam.

Copy to :

1. C.C., M.T., Assam Circle, Guwahati for information, please.
2. S.D.O., Phones-I, Tinsukia for information and necessary action.
3. J.A.O., (Bill), O/C, GM, Telecom., Dibrugarh for necessary action.
4. E-15/ G.L. file
5. E-17/Staff
6. E-49 / Justification file.

Sd/-
Divisional Engineer (Admin)
O/O The General Manager,
Telecom, Dibrugarh, Assam:

*Agreed by
Banshori Sed
Advocate.*

25

Annex - 8
Revised pay-fixation

Fixation has been made as per order No - 33

STATEMENT OF FIXATION OF PAY UNDER CENTRAL CIVIL SERVICE
(REVISED PAY) RULES 1997

31-07/31.11-30

1. Name of the Govt. servant : Sri Bhageswar Hazarka
2. Designation of the post in which pay is to be fixed as on 1-1-96 : TOA(P)
3. Whether substantive or officiating : Sub
4. Existing scale/scales of the post (where there is more than one scale and the scales are merged, in a single revised scale, the particular scale in which the officer was drawing pay should be specified) : 975-25-1150-EB-30-1660
5. Existing emoluments as on 1-1-96
 - a) Existing scale of pay : 975-25-1150-EB-30-1660/-
 - b) Proposed scale of pay : 3200-85-4900 ✓
 - c) Existing pay : 1510/- ✓
 - d) Special pay : ✓
 - e) D/A as on 1-1-96 (at index level 1510) : 2235 ✓
 - f) First instalment of interiem relief : 100 ✓
 - g) Second instalment I/R @ 10% of basic pay subject to minimum Rs. 100/- : 151 ✓
6. Existing emoluments (a) to (g) : 3996 ✓
7. Add 40% of basic pay : 604 ✓
8. Total of items 6 & 7 : 4600 ✓
9. Stage next above in the proposed scale including benefit of bunching, if admissible. : 4645 ✓
10. If one increment is ensured in the proposed scale for every 3 increments in the existing scale. The stage of pay in the proposed scale : 3710 ✓
11. Pay to be fixed in the proposed scale (stage of pay at sl. no. 9 & 10 whichever is higher) : 4645/- (13.8.97) ✓
12. I) Revised pay as fixed under sub - rule at the stage in the revised scale next above the amount against item no. 8 above. : 4645/- ✓

Attested by
Barhadi Seal
Adress etc -

- II) Special pay in the revised scale if any (Rule
- III) Revised NPA if admissible (Rule
13. Revised emoluments (total of item 12 I, II & III)
14. Increase in emoluments (Item 12 - 6)
15. I) Revised Pay
II) Special pay (Rule
III) Personal pay
IV) NPA (Rule
16. I) Number of increments to be allowed on account of bunching (Rule
II) Stepped up revised pay
17. Stepped up revised pay under Note below Rule (indicate the name and pay fixed for the Junior.
18. Increment allowed
a) Under Third provision, to Rule
b) Under Fourth provision to Rule
19. Amount of personal pay (if the revised pay is less than the existing emoluments plus personal pay, the difference to be allowed personal pay over and above the revised pay (Note 5 under Rule
20. Whether the revised pay in the officiating post is less than revised pay in the substantive post vide Rule
21. If answer to 20 is "Yes" the final revised pay under Rule
22. Date of next increment under Rule
23. Any other relevent information

$$4645 - 3996 = 649$$

CSS (Staff)
o/o TDM / DR

AAO
o/o TDM / DR

Accounts Officer (C)
o/o TDM, Dibrugarh

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to

1-7-96 / 4730

INCREMENT CERTIFICATE

FOR THE MONTH OF 1.7.80 to 31-7-95

Certified that the Govt. servant names below have earned the periodical increment from the date cited in col. 5 have been the incumbents for the post specialised for not less than years from the date in col. 5. After conducting the periods of suspensions etc. the and absence on leave w/e pay and in the case of this holding in the posts of officiating capacity of holding temporary posts in the substantive capacity all kinds of leave other than leave on avg. pay deducting which he would have continued to officiating in the posts for their going on leave up to maximum of 4 months such leave taken at a time.

Further certified that the Govt. servants named below have earned will earn periodical increments from the date cited above for reason stated in the explanatory name attached hereto.

Substantive or offg.	Scale of Pay	Present Pay	Dt. from Which	Dt. of Present	Further Pay	REMARKS
Sr. Bhuge. Swan Majarike. T.O	975	1240/-	1 $\frac{7}{96}$	30 $\frac{6}{87}$		
	-25		1 $\frac{7}{96}$	30 $\frac{6}{87}$		
	-1150	1270/-	1 $\frac{7}{96}$	30 $\frac{6}{88}$		
	-EB		1 $\frac{7}{96}$	30 $\frac{6}{88}$		
	-30	1300/-	1 $\frac{7}{96}$	30 $\frac{6}{89}$		
	-1660		1 $\frac{7}{96}$	30 $\frac{6}{89}$		
		1330/-	1 $\frac{7}{96}$	30 $\frac{6}{90}$		
		1360/-	1 $\frac{7}{96}$	30 $\frac{6}{91}$		
		1390/-	1 $\frac{7}{96}$	30 $\frac{6}{92}$		
		1420/-	1 $\frac{7}{96}$	30 $\frac{6}{93}$		
		1450/-	1 $\frac{7}{93}$	30 $\frac{6}{94}$		
		1480/-	1 $\frac{7}{94}$	30 $\frac{6}{95}$		
		1510/-	1 $\frac{7}{95}$	30 $\frac{6}{96}$		
No. E-87/Inv/T.O/10 J.A.D. 13-11-2000.						

Sr. Accounts Officer (Cash)
O/o the GMED/Dibrugarh

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INCREMENT CERTIFICATE

FOR THE MONTH OF 1-1-96 to 30-11-99

36

Certified that the Govt. servant names below have earned the periodical increment from the date cited in col. 5 have been the incumbents for the post specialised for not less than years from the date in col. 5. After conducting the periods of suspensions etc. the and absence on leave w/e pay and in the case of this holding in the posts of officiating capacity of holding temporary posts in the substantive capacity all kinds of leave other than leave on avg. pay deducting which he would have continued to officiating in the posts for their going on leave up to maximum of 4 months such leave taken at a time.

Further certified that the Govt. servants named below have earned will earn periodical increments from the date cited above for reason stated in the explanatory name attached hereto.

Substantive or offg.	Scale of Pay	Present Pay	Dt. from Which	Dt. of Present	Further Pay	REMARKS
Sr. Bhunge- -swar	3200 -85	4615/-	1 $\frac{1}{96}$	30 $\frac{6}{97}$		
Hajarike.	-4900	4734/-	1 $\frac{2}{97}$	30 $\frac{1}{98}$		
T.O.		4815/-	1 $\frac{2}{98}$	30 $\frac{6}{99}$		
		4900/-	1 $\frac{2}{99}$	31 $\frac{10}{99}$		
No. E-87	Int/T=10		P.W.	13-11-2000		
<div>Sr. Accounts Officer (Cash) O/o the GMTD/Dibrugarh</div>						

-29- INCREMENT CERTIFICATE

FOR THE MONTH OF Nov 1987

Certified that the Govt. servant names below have earned the periodical increment from the date cited in col. 5 have been the incumbents for the post specialised for not less than years from the date in col. 5. After conducting the periods of suspensions etc. the and absence on leave w/e pay and in the case of this holding in the posts of officiating capacity of holding temporary posts in the substantive capacity all kinds of leave other than leave avg. pay deducting which he would have continued to officiating in the posts for their going on leave to maximum of 4 months such leave taken at a time.

Further certified that the Govt. servants named below have earned will earn periodical increments from the date cited above for reason stated in the explanatory name attached hereto.

Substantive or offg.	Scale of Pay	Present Pay	Dt. from Which	Dt. of Present	Further Pay	REMARKS
Blunge war high T/O.	4800 -100 -6000/-	5000/-	11/20	30/11/20		
no. E-87	Enc-T=10		13-11-20			


 Sr. Accounts Officer (Cash)
 O/o the GMTD/Dibrugarh