

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990) 3

INDEX

O.A/T.A No..... 245/2001

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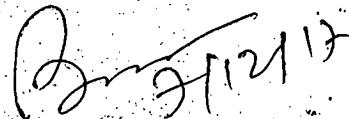
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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

APPLICATION NO. 245/2001 OF 200

APPLICANT (s)

Bimalender Gurha

RESPONDENT (s)

Union of India & Ors.

ADVOCATE FOR APPLICANT(s) Mr. H. K. Das, Mr. B. Pathak

ADVOCATE FOR RESPONDENT(s)

GLSC

Notes of the Registry

dated

Order of the Tribunal

11.7.01

Heard learned counsel for the parties.

Application is admitted. Issue notice on the respondents. Call for records. Returnable by 4 weeks. List on 10.8.01 for orders.

Mr. A. Deb Roy, Sr.C.G.S.C. accepts notice on behalf of all the respondents.

Vice-Chairman

This application is in form but not in true form. Petition is filed not filed M.F. No. for Rs. 5/- IPO/B.D. No. 56422166 Dated 16-2-2001
Dy. Registrar

10/7/01

1m

WBS
12/7/01

10.8.01

Mr. A. Deb Roy, learned Sr.C.G.S.C. prays for time to file written statement.

Mr. S.K. Das learned counsel, appears on behalf of the applicant.

List on 5/9/01 for order.

C. C. Bhattacharya

Member

Rs 5/- deforid to dy on 17/7/01.
Notice received and sent to D/S for doing the recordent No 1 to 6 by Regd. Post ride S/No 2565 u/2370 14-23/7/01

mb

① Service report are still awaited.

Myself

12.9.2001

Mr. S. K. Das appearing for the applicant states that hearing may be fixed on 5.10.2001. In the meanwhile the applicant may file rejoinder, if any.

20.8.2001

W/S Submitted

Ans Mr. Registrar

IC (Ushan)
Member

① W/S has been filed and typed without docket, paginated, ^{bb}
entry in the Index sheet by the D/A.
② No. Rejoinder has been filed.

5.10.01

Mr. H. K. Das learned counsel appearing on behalf of the applicant submits that he had already served the copy of the rejoinder to Shri B. C. Pathak, Addl. C.G.S.C. Case is ready for hearing. List for hearing on 28.11.01.

ZB
4/10/01

4/10/01
SD (S)

Pl. Call for the explanation of D/A
and submit

4/10/01

1m

28.11.01

Judgment delivered in open Court.
Kept in separate sheets. Application is disposed of. No order as to costs.

8.10.2001

Reply to the
W/S has been
submitted.

IC (Ushan)
Member

The case is ready
for hearing.

ZB
24.11.01

Received application copy
B. C. Pathak

19/11/01. 4/12/01
Copy of the Judgment has
been sent and to be open
for filing it can be to the
C.C.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 245 of 2001

Date of Decision 28.11.01...

Binalendu Gupta

Petitioner(s)

Mr. H. K. Das

Advocate for the
Petitioner(s)

Versus-

Union of India & Ors.

Respondent(s)

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

Advocate for the
Respondent(s)

THE HON'BLE **MR. K. K. SHARMA, ADMINISTRATIVE MEMBER**

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 ?

Judgment delivered by Hon'ble : **ADMINISTRATIVE MEMBER**

AC Ushan

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 245 of 2001

Date of Order: This the 28th Day of November 2001.

HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Shri Bimalendu Gupta

Sr. Accountant,
O/O the A.G. (A&E) Assam, Beltola, Moidamgaon,
Guwahati- 29.

... Applicant

By Advocate Mr. H.K.Das, Mr.B.Pathak.

-Vs-

1. Union of India, Represented by the Secretary to the Govt. of India, New Delhi-1.
2. The Comptroller and Auditor General of India, Bahadur Shah Pafar Marg, Indraprastha Head Post office, Post Bag No.7, New Delhi
3. The Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29, Assam
4. The Deputy Accountant General (Admn) O/O the Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
5. The Senior Accounts Officer, I/C C.A. Section, O/O the A.G. (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
6. The Section Officer (Admn) -II O/O the A.G. (A&E) Assam, Guwahati-39. ... Respondents.

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

O R D E R.

K.K.SHARMA MEMBER(ADMN):

By this application the applicant has challenged the Office Order dated 4.12.98 and informing him that the period of 47 days from 27.9.98 to 12.11.98 shall be treated as "Dies non"

The applicant is working as Senior Accountant in the Office of the Accountant General (A&E), Assam, Guwahati.

He was directed to attend ~~undergoing~~ Hindi Training

11/11/01

contd/-

for Praveen Examination for a period of 47 days from 27.9.98 to 12.11.98 for two days in a week. The punishment of "dies non" has been given to the applicant for non completion of the compilation work of Gowalpara Treasury for the month of 6/98 and 7/98. The applicant has challenged the impugned order on the ground that he has attended the Hindi Training and also got Certificate on completion of the training. It is also stated that the applicant was attending his office regularly and assigned duties. He attended to the compilation work of Gowalpara Treasury in the presence of Senior Accounts Officer. The applicant has referred to the letter dated 12.1.99 to the Accountant General (A&E) Assam, intimating him that the work entrusted to him is almost completed and it will take some time for final touches.

Heard Mr.H.K.Das learned counsel appearing on behalf of the applicant and Mr.A.Deb Roy, Sr.C.G.S.C. appearing on behalf of the respondents. In the written statement it has been stated that the work in the office of the respondents is time bound and for undergoing Hindi Training for Praveen Examination the applicant had to attend the training classes only for two hours on two days in a week. The applicant did not complete the official works. The applicant has put signature in the Atendance Retister and was not attending to work regularly. Mr.A.Deb Roy, Sr.C.G.S.C. referred the CCS(CCA) Rules and he argued that as per CCS(CCA) Rules when a Government Servant is absent from duty without proper permission or when on duty in office, has left the office without proper permission or while in the office refused to perform the duties assigned to them, the leave sanctioning authority

U.U.Sha

contd/-

may order that the days on which work is not performed be treated as "dies non".

I have heard learned counsel for the parties at length. There is no dispute that the applicant has successfully completed the Hindi Training during the period from 27.9.98 to 12.11.98 as evident from the Certificate as Annexure 'B' to the O.A. The Respondents also submit that the applicant has been putting initials in the Attendance Registrar. Mr.H.K.Das learned counsel for the applicant argued that the respondents have treated the days of Saturday and Sunday and other holidays period as 'dies non'. I am of the view that the Respondents have not carefully considered the reply of the applicant by letter dated 12.1.99 in which he has submitted that he has almost completed the work which was assigned to him. The applicant submitted a representation to the Accountant General(A&E), Assam, but the respondents have not given any reply to the letter dated 12.1.99. It appears that the respondents have not fairly appreciated the facts, the respondents have taken the entire period as dies non. It is seen from Annexure V to the Written statement that the Memos for non-completion of assigned work have been issued to the applicant on 4.2.99, 8.2.99 and 12.2.99 while 'dies non' has been considered for the period from 27.9.1998 to 12.11.1998.

In the facts and circumstances the order dated 4.12.98 can not be ~~sustained~~^{upheld} and is set aside. The applicant is directed to make a representation within a period of 15 days from the date of receipt of this order and the Respondents are directed to reconsider the representation of the

U Usha

contd/-

applicant by passing a reasoned order within a period of 2 months from the date of receipt of the representation.

The application is disposed of as above. There shall however, be no order as to costs.

K. K. Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER

LM

देशीय प्रापाधिक अधिकरण
Central Administrative Tribunal

5 JUL 2001

गुवाहाटी स्थापनी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

GUWAHATI

Filed by the Applicant
through
C.H.R.Das

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

O.A. NO. 245 /2001

Shri Bimalendu Gupta Applicant

- VS -

Union of India and Ors. ... Respondents

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

BETWEEN : Shri Bimalendu Gupta ... Applicant

- VS -

Union. of India & Ors.... Respondent

PARTICULARS OF APPLICANT :

- i) Name of the applicant : Shri Bimalendu Gupta
- ii) Name of father : Late Biswanath Gupta
- iii) Designation and office in which employed : Senior Accountant, O/o the A.G. (A&E) Assam Beltola, Moidamgaon, Guwahati-29.
- iv) Office Address : O/o the Accountant General (A&E) Assam, Beltola, Moidamgaon, Guwahati-29.
- v) Address for ~~REMITTING~~ service of notice : O/o the A.G. (A&E) Assam, Beltola, Moidamgaon, Beltola, Guwahati-29.

PARTICULARS OF RESPONDENTS:

- i) The Union of India, Represented by the Secretary to the Govt. of India, Ministry of Home Affairs, New-Delhi-1.
- ii) The Comptroller and Auditor General of India, Bahadur Shah Zafar Marg, Indraprastha Head post office, Post bag No.7 New-Delhi-2.
- iii) The Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29., Assam.
- iv) The Deputy Accountant General (Admn) O/o the Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
- v) The Senior Accounts officer, i/c C.A. Section. O/o the A.G. (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.

Contd....2.

Bimalendu Gupta

6. The Section officer(Admn,-II)
O/o the A.G. (A&E) Assam,
Moidamgaon, Beltola,
Guwahati-39.

**I. PARTICULARS OF THE ORDER/ORDERS AGAINST
WHICH THE APPLICATION IS MADE.**

The application is made against the following order/orders :

A. Order number DAG(A)/PC/BG/151 dated 4.12.98 passed by the Deputy Accountant General(Admn) o/o the A.G. (A&E) Assam,Moidamgaon, Beltola Guwahati-29.

B. Letter No. Admn.II/Misc/Pt/II / 98-99/04 dated 9.4.99 issued by the Section officer(Admn II) of the office of the A.G. (A&E) Assam, Moidamgaon. Beltola,Guwahati-29.

III. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order/orders against which he wants redressal is within the jurisdiction of the tribunal.

III. LIMITATION

The applicant further declare that the application is within the limitation period prescribed in section(21) of the Administrative Tribunal Act, 1985. It would be relevant to state here that since no order for release of pay and allowances has ~~not~~ yet been issued by the Respondent, the application is not ~~but~~ ^{based} by limitation.

IV. FACTS OF THE CASE :

1. That the ~~application~~ applicant states that he is the senior Accountant in the office of the A.G. (A&E) Assam,Moidamgaon, Beltola,Guwahati-29. He was selected to attend Hindi Training classes for PRAVEEN examination for a period of 47 days(forty seven) days from 27.9.98 to 12.11.98 held in the office of the Accountant General (A&E) Assam,Guwahati-29 vide letter No. Admn. Estt Order No.105 dated 8.7.98 issued by the Senior Accounts officer (Admn & Estt) of the office of the A.G. (A&E) Assam,Beltola Guwahati-29.

A copy of the letter dated 8.7.98 is annexed herewith - And is marked as
Annexure- A

2. That the applicant states that pursuant to the aforesaid order, the applicant was undergoing Hindi Training regularly in addition to his allotted duties of compilation works of Goalpara Treasury accounts for the months of June '98 and July '98 in presence of the senior Accounts officer Shri Swadesh K. Das i/c CA-7(B) in his office chamber where the sitting arrangement of the applicant was made considering dust pollution and unhygienic condition of the CA Block. Therefore, it was not correct to say that the applicant did not do his job allotted to him and left office simply after putting his arrival and departure time in the attendance Register.

3. That the applicant states that he completed his Hindi Training as per schedule and qualified in the test. Surprisingly enough, the period from 27.9.98 to 12.11.98 was treated as "Dies non" includes the day of test/examination on 15.11.98 for which T.A. and D.A. paid by the A.G. (A&E) Assam, Guwahati because of his alleged absence from works for the above period vide letter No. DAG(A)/PC/BG/151 dated 4.12.98 issued by the Deputy Accountant General (Admn) Respondent No. 4 even though, the applicant was attending his office regularly, and did his works allotted to him.

A copy of the letter dated 4.12.98 is annexed herewith and is marked as Annexure B and a copy of the pravin test pass certificate is annexed herewith and is marked as Annexure "B 1"

4. That the applicant states that due to declaration of the period from 27.9.98 to 12.11.98 totalling to 47 (forty seven) days as "#Dies non", the pay and allowances drawn by the applicant totalling to Rs. 12,10 9/- was recovered from his salary in instalments (at the rate of Rupees three thousand twenty seven in three instalments and Rupees three thousand twenty eight in one instalment).

A copy of the letter dated 9.4.99 is annexed herewith and is marked as Annexure C

contd...4.

Dimalendra Singh

5. That the applicants states that he submitted an application on 12.1.99 to the A.G. (A&E) Assam, Guwahati the Respondent No.3 requesting him to cancell the letter dated 4.12.98 and letter dated 9.4.99 debarring the period from 27.9.98 to 12.11.98 totaling to 47 days as "Dies non" and recovery of the amount of Rs.12,109/- from the salary of the applicant respectively. But no action has been taken by the Respondent No.3 on his application dated 12.1.99.

A copy of his application dated 12.1.99 is annexed herewith and is marked as
Annexure-D

6. That the applicant respectfully submits that the treating of the period for 47 (forty seven) days from 27.9.98 to 12.11.98 as "Dies non" is arbitrary and illegal and, as such, the letter dated 4.12.98 (Annexure-B) is liable to quashed and set aside.

7. That the applicant respectfully submits that consequent upon the decision taken vide letter dated 4.12.98 (Annexure-B), the recovery of the amount of Rs.12,109/- from the salary of the applicants vide letter dated 9.4.99 (Annexure-A) is improper, unjustified and bad in law. As such, the letter of the respondent No.6 dated 9.4.99 is also liable to be quashed and set aside.

V. GROUND FOR RELIEF WITH LEGAL PROVISION:

The applicant urges the following grounds :-

i) That the respondent No.4 has utterly failed to discharge his official duties in comming to a decision treating the period from 27.9.98 to 12.11.98 totaling to 47 days "Dies non" despite the fact that the applicant was undergoing Hindi Training, attended office and did his allotted works regularly and put his attendance in the attendance register properly during the aforesaid period.

ii) That the respondent No.6 has also failed to discharge his official duties in recovering Rs.12,109/- from the salary of the applicant in four monthly instalments.

iii) That the applicant states that irreparable financial loss has been caused to the applicant due to recovery of pay and allowances from his salary due to no fault of his own.

VI. DETAILS OF REMADIES EXHAUSTED:

The applicant declares that he availed of all the remedies available to him under the rules.

The applicants submitted a representation to the A.G. (A&E) Assam, Guwahati-29 on 12.1.99 to cancell the letter dated 4.12.98 and 9.4.99 regarding "Dies non" period and recovery of Rs.12,109/- from his salary. But no action has been taken by the respondents on his said representation.

VII. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT.

The applicant further declares that he did previously file an OA No.298/99 before this Tribunal but the same was rejected on the ground that the plural remedies in one application were not sustainable under rule 10 of the Central Administrative Tribunal (Procedure) Rules 1987.

A copy of the order dated 29.3.2001 of the Tribunal is annexed herewith and is marked as annexure- E

VIII. RELIEF SOUGHT FOR :

In view of the facts stated above, the applicant prays for the following relief/reliefs :-

i) Necessary judgement be passed directing the respondents No.3, 4 and 6 to set aside the impugned order dated 4.12.98 (Annexure- B) as well as impugned order dated 9.4.99 (Annexure-C).

ii) Necessary judgement be passed directing the the respondents No.3, 4 & 6 to release the amount of Rs.12,109/- which has been recovered from his salary in four instalments after declaring the period from 27.9.98 to 12.11.98 totalling to 47 days as "Dies non".

IX. INTERIM ORDER:

Pending final decision on the application the applicant prays for issuance of the following orders:

1) Interim order be passed directing the A.G. (A&E) Assam, Beltola Guwahati-29 (Respondent No.-3) to release the amount of Rs. 12,109/- in one instalments to the applicant, which has been recovered from his salary in four monthly instalments treating the period from 27.9.98 to 12.11.98 as "Dies non".

THE PARTICULARS OF IPOS IN RESPECTS OF APPLICATION FEES :

1. Number of IPO(s) for Rs. 50/- = 1 (One) 56422166
2. Name of issuing Post office = Gauhati GPO
3. Date of issue : 16-02-2001
4. Post office at which payable : Guwahati
- 5.

LIST OF PARTICULARS:

As stated in the Index.

Verification

Ramendra Singh

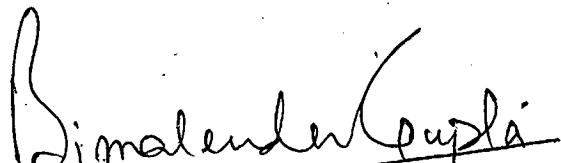
VERIFICATION

I, Shri Bimalendu Gupta, son of late Biswanath Gupta, aged about 45 years by cast Hindu by profession Govt. service, resident of Borthakur Mill Road, Ulubari, Guwahati-7 do, hereby verify that the statement made in 2 paragraphs

of this application are true to my knowledge those made in paragraph 1, 3, 4, 5 are based on records which I believe to be true and the rest are humble submission before this Hon'ble Tribunal.

AND I sign this verification this 5th day of July, 2001 at Guwahati.

8
11 - certificate


Signature of the applicant

ANNEXURE-A

OFFICE OF THE ACCOUNTANT (A&E) ASSAM, MAIDAMGAON
GUWAHATI -29

Admn. Estt. Order No- 105

Dated 8.7.98

The following officials (list appended) of this office have been selected to attend Hindi Training classes for Praveen and Pragya Examination. The Officials are hereby directed to report to the instructor at 11.00 am on 8.7.98. The training will be held in the Conference room (3rd floor) of this office from 11.00 am on every Tuesday and Thursday.

It is impressed upon all the trainees that training in Hindi is obligatory for all Central Govt Employees and that all the officials detailed for Hindi training Classes will be liable for disciplinary action in case of wilful/unjustified absence from the training classes. A serious view will be taken if the nominees fail to & submit their forms well in time and fail to appear in the examination.

The A.A.O/ S.O/ Supervisor of the concerned section should ensure that the officials who are nominated for the Hindi Training classes should put their dated initials in their sectional attendance register indicating their time of arrival and departure.

(Authority :- Vidi D.A.G (A) Order dated 6.7.98 in the HTS file.)

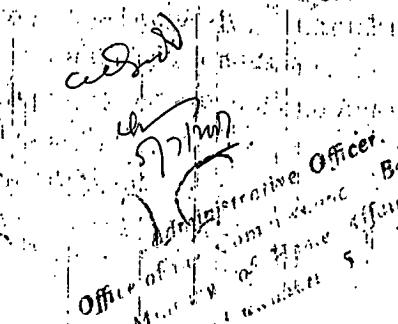

27
Sr Accounts Officer
(Admn. & Estt.)

Memo No. Admn & Estt/HC/GHY/ HTS/98-99/1232-43

Dated 8.7.98

Copy forwarded to :-

1. The officer in overall charge, Hindi Teaching Scheme, N.F.R.L.Y Head Quarter premises, Maligaon.
2. The Dy. Director, Regional Implementation office, (N.E. Region) Pub-Shafnia Road, Silpukhuri, Guwahati.
3. The Secy to A.G (A&E) Assam, Guwahati
4. The Sr P.A to A.G(A&E) Assam
5. P.A to D.A.G (A)
6. P.A to D.A.G (P&F)
7. P.A to D.A.G (Acs)
- Concerned B.Os/ A.A.O/ S.Os/ Supervisors
Officials concerned

27.9.98


8 9
 LIST OF OFFICIALS DETAILED FOR HINDI TRAINING FOR PRAVEEN CLASS

Sl. no	Name	Designation	Section
1.	Amresh Sarma	Sr P.A	A.G 'Scell
2.	Sudip Kr Biswas	C/T	I.T.A 1
3.	Bimalendu Gupta	Sr Acctt	Wei Cell
4.	Sarat Ch. Sarma	C/T	Record 8/1/198
5.	Pradip Kumar	C/T	PF-1/CAS
6.	Satyajyoti Das	Sr Acctt	PF-2 8/1/198
7.	Debashis Bhattacharjee	S.O	PF-3 8/1/198
8.	Nihar Ranjan Sarma	Acctt	P.F-4
9.	Rama Kantai Paul	Sr Acctt	P.F-7
10.	Prativa Sarma	do	P.F-8
11.	Alanjyoti Das	do	PF-12 9/1/198
12.	Sathi Chakraborty	Acctt	PF-11 8/1/198
13.	Sarat Ch. Deka	Acctt	PF-12
14.	Malwika Bhattacharjee	Sr Acctt	PF-13 8/1/198
15.	Kanmani Daimari	Acctt	PF-14 8/1/198
16.	Ashis Chakraborty	Sr Acctt	Admn-1 8/1/198
17.	Mitali Paul	do	E.D.P.Cell
18.	Sushanta Choudhury	Acctt	do 8/1/198
19.	Bimalendu Chakraborty	D.E.O	Com. Cell
20.	Arup Ghosh	do	do
21.	Abhijit Deb	C/T	Admn-1
22.	Kishore Gupta	Acctt	Book -2 on E. L
23.	Kanak Basumatary	do	GE-4
24.	Nira Anjun	Steno	D.A.G 'Scell
25.	Sriprasad Bhattacharjee	Acctt	Loan-1
26.	Suban Guyary	C/T	Record 8/1/198
27.	Parimal Sarkar	do	CA-113
28.	Dipali Mandal	do	CA-7
29.	Durga Basak	do	CA-118
30.	Ira Dhar	do	CA-5
31.	Biprojit Roy	Sr Acctt	Cash
32.	Subash Ch. Sen	do	W.M-2
33.	Debabrata Choudhury	S.O	W.M-3
34.	Samir Bhattacharjee	S.O	F.C
35.	Mritunjoy Debray	Sr Acctt	Pen-1
36.	Bidyut Sen Purkayastha	Sr Acctt	Pen-2
	Shim Kr Das	Sr Acctt	Pen-4

ANNEXURE - B

10

19

गो. नेश्वा, असाम, गुवाहाटी
G.O. - ACCOUNTS, ASSAM, GUWAHATI
फोन: ०३६१-५६२९५४
फॅक्स: ०३६१-५६१२४०
फॉक्स: ५६१२४०
फोनफॉक्स: ५६५९०१



गो. नेश्वा, असाम
गो. नेश्वा असाम (लै. ल. न.) असाम
गुवाहाटी - ७८१ ००५

OFFICE OF THE
ACCOUNTANT GENERAL (A&E) ASSAM
GUWAHATI - 781 005

No. : DAG (A)/PC/BG/151

गुवाहाटी दिनांक
Dated Guwahati

4-12-98

In response to this office Memo No. DAG (A)/PC/BG/130 dt. 12-11-98 Shri Bimalendu Gupta, Sr. Acctt. stated that Asstt. Accounts Officer, i/c. CA-7 Section failed to provide working materials related to compilation work. On scrutiny, it is seen that on 2-9-98 and 18-9-98 Shri Gupta, Sr. Acctt. was allotted with the compilation work of Goalpara Treasury for the months of 6/98 and 7/98 respectively. He was asked to do the compilation work in the Sr. Accounts Officer's chamber from 27-9-98 to 12-11-98 but he did not do his job except putting his initials in the attendance register and leaving office without permission of the superiors.

In view of the above, the undersigned is hereby ordered that absence from work in respect of Shri Bimalendu Gupta, Sr. Acctt. from 27-9-98 to 12-11-98 may be treated as 'dien-non'.

S. Boddharthi
Dy. Accountant General (Admn).

Memo No. DAG (A)/PC/BG/152-157

Date - 4-12-98

Copy for information and necessary action :-

1. Sr. A.O. i/c. Admn.
2. S.O. i/c. Admn-I
3. S.O. i/c. Admn-2

They are requested to make necessary entry in the service records as well as adjustment on pay bill.

P.T.O.

Ans
W
87-12-98
Administrative Officer
Border
Affairs
Office of
M. P. Guwahati S



Annexure B1

11

संख्या 0261407
No.

भारत सरकार
GOVERNMENT OF INDIA

अनुक्रमांक 4287
Roll No.

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS,

राजभाषा विभाग

DEPARTMENT OF OFFICIAL LANGUAGE

हिन्दी शिक्षण योजना (परीक्षा-स्कंध)

HINDI TEACHING SCHEME (EXAM. WING)

नई दिल्ली-110001

NEW DELHI-110001

प्रमाण पत्र

CERTIFICATE

हिन्दी
Hindi

प्रवीण
Praveen

परीक्षा
Examination

नवम्बर, 1998
November, 1998

श्री/कुमारी/श्रीमती
Shri/Kum./Smt.

प्रियमलेन्दु गुप्त

सुपुत्र/सुपुत्री/पत्नी श्री
Son/Daughter/Wife of Shri

शिखनाथ दास

कार्यालय/मंत्रालय
Office/Ministry

महालेखाकार(ले.व फ.)का कार्यालय, गुदाहाटी

प्रमाण- पत्र उपर्युक्त परीक्षार्थी को

प्रवीण

परीक्षा में उत्तीर्ण होने पर प्रदान किया जाता है।

This Certificate is awarded to the above Candidate for having passed
the Praveen Examination.

अंक-सूची / MARK SHEET

प्रश्न-पत्र Question Paper	प्रथम I	द्वितीय II	योग Total	आंतरिक मूल्यांकन /Internal Assessment मौखिक परीक्षा/Viva Voce
अधिकतम अंक Max. Marks	100	100	200	100
प्राप्तांक Marks Obtained	48	39	87	52

नई दिल्ली/NEW DELHI
दिनांक/DATED 26/02/99

नई दिल्ली/NEW DELHI
26/02/99
Administrative Officer
Office of the Commissioner of Border
Office of the Commissioner of Home Affairs
Ministry of Home Affairs

उप निदेशक (परीक्षा-स्कंध)
Dy. Director (EXAM. WING)

To

S/o Bimalendu Gupta

Sr. Accountant

In inviting a reference to your representation dated 5.4.99, I am to inform you that, DAG(A) vide his order No. DAG(A)/PC/BG/151 dt. 4.12.98, ordered that as your absence from work for the period from 27.9.98 to 12-11-98 may be treated as 'dies-non'. Accordingly pay and allowances drawn by you during the period from 27.9.98 to 12-11-98 (calculated to be Rs. 12,109.00) has to be recovered from your pay and allowances. DAG(A) vide his order dated 9.3.99 directed to recover the above amount of Rs. 12,109.00 in four (4) equal instalments (e.g. 3027 in 3 instalments and Rs. 3028.00 in last instalment). Accordingly Rs. 3027 (Rupees three thousand and twenty seven) only has been recovered from your salary for the month of 3/99 being 1st instalment.

Acting
15-1-99
Administrative Officer
Office of the Comptroller and Auditor General
Ministry of Finance
S. D. 2000

To

The Accountant General(A&E) Assam,
Moidamgaon, Beltola,
Guwahati-29.

Sir,

I beg most respectfully to draw your kind attention and to state that, I am on receipt of Deputy Accountant General(Admn) letter No.DAG(A)/PC/BG/151 dated 4.12.98 and surprised to know that my service from the period commencing from 27.9.98 to 12.11.98 has been held to be "Dies Non" and I beg to most respectfully to state as follows :

a) I come regularly to office and leave office as per office norms. I came to office also from 27.9.98 to 12.11.98 in time and leave office after office hours.

b) It is also not correct that I did not do my job. I did my job in humble way, very sincerely in the i/c Senior Accounts officer's Chamber of CA-7(B) as per order of Sr. Accounts officer and hence your honour is wrongly reported for the best reason known to the reporter alone. It is pain me very much why such a false information has been tabled before the Administration.

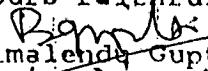
c) The work entrusted to me is almost completed and it will take some time for final touch. In view of the position explained, above question of "dies non" does not arise at all and this may kindly be reconsidered to meet the end of Justice. The "dies non" will effect my service career, apart from economic hardship, as it is based on incorrect report. Your honour may be pleased to be kind enough and be further pleased to cancel the above "dies non" order dated 4.12.98.

2. In regard to letter No.DAG(A)/PC/BG/130 dated 12.11.98 I beg to state that I replied to the letter as stated in the above reference, there I clearly stated that the contents made in the said letter are not correct and allegations are false.

In view of the circumstances both the letter as stated above may kindly be treated to be cancelled and exempt me from the break of service and financial hardship. A copy of the reply made on 28.8.98, 9.9.98 and 27.11.98 are enclosed for your kind perusal. For this act of your kindness I shall remain ever grateful to you.

Dated, Guwahati
the 12th January, 1999.

Yours faithfully


(Bimalendu Gupta)
Senior Accountant

Acting
Liaison
Administrator Officer
Assam Rifles Border
Office

(10)

ANNEXURE-5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 298 of 1999.

Date of Order : This the 29th Day of March, 2001.

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

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

Shri Bimalendu Gupta,
Senior Accountant,
Office of the A.G.(A&E)
Assam, Beltola, Guwahati-29.

Applicant

By Advocate Shri H.Kumar.

- Versus -

Union of India & Ors.

Respondents.

By Sri B.C.Pathak, Addl.C.G.S.C.

ORDERK.K.SHARMA, ADMN. MEMBER

By this application the applicant has challenged Office Memorandum No. S-11011/6/92-CGHS Desk-I/CGHS(p) dated 4.8.91 issued by the Ministry of Health & Family Welfare and has objected to the monthly subscription being deducted from his salary towards CGHS. He has also challenged the order No. DAO(A)/PC/BC/151 dated 4.12.98 treating the period of absence from 27.9.98 to 12.11.98 as 'dies non'.

2. The applicant is a Senior Accountant working in the office of the respondent No.3, Accountant General (A&E), Assam, Guwahati. The applicant prays that he should be entitled to the facilities under Central Civil Service Medical Attendance Rules. The Medical reimbursement scheme was suspended by the Government with the introduction of CGHS scheme by order No. S-11011/6/92-CGHS Desk-I/CGHS(p) dated 4.8.94. As per this scheme the applicant is supposed to pay monthly subscription to the respondents whether



Ans. to
577/mt
Office of the Administrative Officer
Ministry of Home Affairs
Guwahati-5

contd..2

he or his family suffers any illness or not. It is submitted that the subscription is to be paid even if the employees resides beyond 3 to 5 K.Ms of the CGHS Dispensary. It is claimed that no identity card is issued if the employees resides beyond 3 to 5 K.Ms from the CGHS Dispensary. The respondents have curtailed the medical facilities for employees who want treatment under systems other than allopathic. The applicant has prayed for stopping of realisation towards CGHS and to allow him the facility of treatment under CCS Medical Attendance Rules 1944. The applicant had earlier approached this Tribunal in C.A.177/98, which was disposed of with the direction to the respondents to dispose of the representation of the applicant. The respondents have disposed of the representation of the applicant by order dated 9.10.98 treating the period of absence from 27.9.98 to 12.11.98 as dies non. It was stated before us that during this period he has also attended some Hindi classes, which period could not be treated as absence.

3. The respondents have stated that the Medical reimbursement scheme has been replaced by CGHS Scheme which is applicable at Guwahati from February 1996. The CGHS authorities have at no stage stated that the facilities are available only to those employees who reside within 3 to 5 Kms. from the location of the dispensary. The so-called circular was issued only a guideline to the Heads of the department for allotment of CGHS dispensary for the convenience of the employees with the idea that the employees are allotted a dispensary near their residence. It is stated that in places like Delhi, Mumbai, Calcutta, Chennai facilities for treatment under Homeopathic/Ayurvedic/Unani/Siddha systems are also available. Guwahati being new establishment no unit of



27/11/98
K.M.

Administrative & Civil
Affairs
Office of the Comptroller and Auditor
Ministry of Home Affairs
Guwahati

system other than allopathy has been introduced. However, employees can take treatment under any other system from State Government recognised institutions. The respondents have objected to the applicant's/multiple reliefs on unconnected matters.

4. The objective for which the CGHS Schemes are introduced are as follows :

- (i) To provide comprehensive medical care facilities to the Central Government employees/pensioners and members of their families.
- (ii) To avoid cumbersome system of reimbursement of medical expenses to the employees/pensioners."

The scheme is applicable to Central Government employees residing in CGHS covered cities. There is no dispute that CGHS scheme has been made applicable to Guwahati. The order of Ministry of Health dated 4.8.94 which the applicant has challenged makes the scheme compulsory for all Central Government employees residing in CGHS covered areas and employees cannot opt out of the scheme excepting where the spouse of the employee is also employed where option is given to choose the facilities provided by the employer or the spouse. The objective of the scheme as seen above is to provide (i) comprehensive medical care facilities to government employees and their families and (ii) was to stop cumbersome reimbursement system of medical expenses.

The respondents have pointed out that applicant is a beneficiary of the CGHS scheme as he has been issued an identity card No.004518. As a Government employee the

Ans
577110 applicant has certain rights as well as some obligations.

He is also bound by the rules and regulations made by the Government for its employees. The Government thought it

desirable to introduce CGHS for a large community of Government employees. The scheme has been made for the benefit of Government employees. The applicant cannot say that as he does not like the scheme he should be allowed to opt out of the scheme. The scheme is aimed at providing standardised medical facilities at the cost of small contribution. A small contribution also entitles to all types of treatment including hospitalization and treatment at specialised institutes at other places. When the scheme has been made applicable the employees residing within the city of Guwahati, the applicant cannot have any option to get out of the scheme. The applicant's request for exempting him from deduction for CGHS contribution is without any merit and deserves to be rejected.

5. The second request of the applicant regarding the withholding of pay for the period of absence is not entertained as the same is not in any way connected with the relief sought on the first ground. The matter being unconnected with the main object the same is turned down in view of the Section 10 of the Central Administrative Tribunal (Procedure) Rules 1987, which restricts relief in an application to a simple cause of action.

The application is accordingly dismissed. There shall, however, be no order as to costs.

Sd/- Vice-Chairman

Sd/- Member (A)

Certified to be true Copy
সত্যাগ্রহ প্রতিক্রিয়া

Section Officer (S)

সামুদায় অধিকারী (স্থানিক সভা)
Central Administrative Tribunal

গুৱাহাটী অধিকার

Guwahati Bench, Guwahati-8

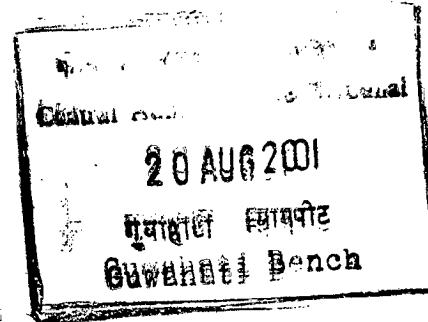
সামুদায় বাধাৰী, গুৱাহাটী

১০/৩/২০১

Office

Administrative Office

১০/৩/২০১



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O.A. NO. 245 OF 2001

Shri Bimalendu Gupta

- Vs -

Union of India & others.

- And -

In the matter of :

Written Statements submitted by
the respondents

The respondents beg to submit the written
statement as follows :

1. That with regard to para 1, 2 and 3, the respondents beg to offer no comments.
2. That with regard to para 4.1, the respondents beg to state that it is true that Shri Bimalendu Gupta Sr. Accountant was one of the officials selected for Hindi Training in PRAVEEN conducted in this office from 15.7.1998 for 5 months vide this office order no. 105 dated 8.7.1998. However, the candidates sponsored for this training had to attend the training classes only for two hours on two days in a week i.e. Tuesday and Thursday from 11.00 AM to 1.00 P.M. As such, the contention of Shri Bimalendu Gupta that he had attended the training classes for the entire period of 47 days in question (from 27.9.98 to 12.11.98- i.e. the period of dies-non) is therefore, not true and amounts to

misrepresentation of facts.

Copy of letter dated 8.7.98 is enclosed as
Annexure - 1.

3. That with regard to para 4.2, the respondents beg to state that the submission of Shri Bimalendu Gupta that in addition to undergoing training in Hindi he had compiled the accounts for June 1998 and July 1998 of Goalpara Treasury is not true. This is borne out by the report dated 1st December 1998 submitted by the Asstt. Accounts Officer, incharge of CA 7 Section where Shri Gupta was posted at that time in response to a query dated 30th November 1998 on the subject by the Deputy Accountant General (Admin) . The Asstt. Accounts Officer certified that during the said period Shri Gupta did not carry out any official work.

Copy of querry dated 30.11.98 and report dated 1.12.98 are enclosed as Annexure - 2 and 3 respectively.

It is also worth mentioning that Shri Gupta was allotted the work of compilation of accounts for the month of June 1998 and July 1998 in respect of Goalpara Treasury on 2.9.98 and 18.9.98 respectively (Annexure - 2, para 10') but till 12th of January 1999, he did not complete the work as submitted by Shri Gupta (Annexure 4) himself vide his representation dated 12.1.99. The note forwarded by the Deputy Accountant General (A/cs) dated 25.2.99 (marked 'X' in Annexure 5) also reveals that the work pertaining to July 1998 of Goalpara Treasury had to be completed with the help of some of the sectional staff as Shri Gupta

~~did not compile the~~

did not do the same. Further, the memo dated 28.1.99 (Annexure - 6) issued by the Asstt. Accounts Officer, i/c of CA 7 (B) reveals that Shri Gupta did not compile the accounts of June 1998 relating to Goalpara Treasury till that date. It is pertinent to mention here that all these works are time-bound and any delay in submission of the accounts by even a particular staff member hampers the entire process of compilation, finalization and submission of accounts.

4. That with regard to para 4.3, the respondents beg to state that it is true that on the basis of the report furnished by the Asstt. Accounts Officer and Sr. Accounts Officer of CA 7 Section and after due verification of the facts, the period from 27.9.98 to 12.11.98 was declared as dies-non for his not performing any official duties in terms of Rules in force vide this office Memo No. DAGA/PC/BG/151 dated 4.12.1998 (Annexure-7), including 12.11.98 on which he attended the Hindi examination at Maligaon for which both TA & DA was sanctioned. This office, however, has initiated necessary steps for release of the pay and allowance for 12.11.1998, for which recovery had been made inadvertently. However, the fact remains that excluding 12.11.1998, for the rest of the days in question, Shri Gupta is liable to be penalised.

5. That with regard to para 4.4, the respondents beg to state that it is true that the pay and allowances

amounting to Rs. 12,109/- drawn by Shri Bimalendu Gupta for the period from 27.9.98 to 12.11.98 has been recovered in 4 installments. This was necessitated due to declaration of dies-non on the above-mentioned period and is as per rules in force.

6. That with regard to para 4.5, the respondents beg to state that the statement made by Shri Gupta in this para is not based on facts. In fact, in response to the above representation of Shri Bimalendu Gupta, he was given a suitable reply vide this office Memo No. DAG(A)/PC/BG/179 dated 20th January 1999, which he duly received on 20.1.99 (Annexure - 8).

7. That with regard to para 4.6 and 4.7 , the respondents beg to state that in para 4.3, above, the dies-non for the period from 27.9.98 to 12.11.98 was imposed after due verification of the material facts available in this regard after receiving a report from the Asstt. Accounts Officer and Sr. Accounts Officer of CA 7 Section, under whom Shri Gupta was working during the period under question. The action by the competent authority in this regard is perfectly in order as provided under GID 6 below Rule 11 of CCS (CCA) Rules 1965 (Annexure - 9).

As Shri Bimalendu Gupta did not perform his official duties before and after the training hours during the period as reported by his superior officers and in view of the facts stated in the preceding paragraphs, the applicant is not entitled to any relief as sought by him.

8. That with regard to para 5, the respondents beg to state that the respondents nos. 4 and 6 did their official duty and took action according the rules provided for.
9. That with regard to para 6, the respondents beg to offer no comments.
10. That with regard to para 7, the respondents beg to state that the O.A. No. 298/99 filed by the applicant has already been dismissed by the Hon'ble CAT, Guwahati Bench, Guwahati.
11. That with regard to para 8, the respondents beg to state that the recovery was made after following due procedure by this office and it may not be refunded before the case is heard.
12. That with regard to para 9, the respondents beg to state that the Hon'ble CAT may not pass any interim order causing loss to the Public Exchequer.

Verification

VERIFICATION

I, Shri HOVEYDA ABBAS, Dy. ACCOUNTANT
GENERAL (A&VLC) being authorised do hereby verify and declare
that the statements made in this written statement are true
to my knowledge, information and believe and I have not
suppressed any material fact.

And I sign this verification on this 10th
day of August, 2001 at Guwahati.



श्री महालेखाकार (प्र०)
Dy. Accountant General (Admin.)
प्रान्तिकार का कार्यालय लि. एवं ह०
G.O. the Accountant General (A & V)
प्रम्म मुख्यालय
गुवाहाटी
Assam
Guwahati

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ANNEXURE I

OFFICE OF THE ACCOUNTANT (A&E) ASSAM, MAIDAMGAON
GUWAHATI -29

Admn. & Estt. Order No- 105

Dated 8.7.98

The following officials (list appended) of this office have been selected to attend Hindi Training classes for Praveen and Pragya Examination. The Officials are hereby directed to report to the Instructor at 11.00 am on 15.7.98. The training will be held in the Conference room (3rd floor) of this office from 11.00 am on every Tuesday and Thursday.

It is impressed upon all the trainees that training in Hindi is obligatory for all Central Govt Employees and that all the officials detailed for Hindi training classes will be liable for disciplinary action in case of wilful/unjustified absence from the training classes. A serious view will be taken if the nominees fail to submit their forms well in time and fail to appear in the examination.

The A.A.b/ S.O/ Supervisor of the concerned section should ensure that the officials who are nominated for the Hindi Training classes should put their dated initials in their sectional attendance register indicating their time of arrival and departure.

(Authority :- Vidi D.A.G (A) Order dated 6.7.98 in the HTS file.)

Sr. Accounts Officer
(Admn. & Estt.)

Memo No Admn. & Estt/HC/CHY/ HTS/98-99/1232-43 Dated 8.7.98
Copy forwarded to :-

1. The officer in overall charge, Hindi Teaching Scheme, N.P. RLY Head Quarter premises, Maligaon.
2. The Dy. Director, Regional Implementation office (N.E. Region) Pub-Sarania road, Silpulchuri, Guwahati
3. The Secy to A.G (A&E) Assam, Guwahati
4. The Sr. P.A. to A.G (A&E) Assam
5. P.A. to D.A.G (A)
6. P.A. to D.A.G (P&F)
7. P.A. to D.A.G (AcS)
8. Concerned B.Os/ A.A.O/ S.Os/ Supervisors officials concerned.

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LIST OF OFFICIALS DETAILED FOR HINDI TRAINING FOR PRAVEEN CLAS

Sl. No	Name	Designation	Section
1.	Amresh Sarma	Sr P.A	A.G 'Scell
2.	Sudip Kr Biswas	C/F	F.T.A 1
3.	Bimalendu Gupta	Sr Acctt	Wcl Cell
4.	Sorat Ch. Sarma	C/T	Record
5.	Pradip Kumar	do	PF-NCAS
6.	Satyajyoti Das	Sr Acctt	PF-2
7.	Debashis Bhattacharjee	S.O	PF-3
8.	Nihar Ranjan Sarma	Acctt	PF-4
9.	Rama Kantai Paul	Sr Acctt	PF-7
10.	Prativa Sarma	do	PF-8
11.	Abijyoti Das	Acctt	PF-12-9
12.	Sathi Chakraborty	Acctt	PF-11
13.	Shrat Ch. Deka	Acctt	PF-12
14.	Malvika Bhattacharjee	Sr Acctt	F-13
15.	Kohmani Daimari	Acctt	PF-14
16.	Ashis Chakraborty	Sr Acctt	Admn-1
17.	Mituli Paul	do	E.D.P. Cell
18.	Sushanta Choudhury	Acctt	do
19.	Bimalendu Chakraborty	D.E.O	Com. Cell
20.	Arup Ghosh	do	do
21.	Abilijit Deb	C/T	Admn-1
22.	Kishore Gupta	Acctt	Book -2
23.	Kanak Basumatary	do	CE-4
24.	Nira Atjun	Steno	D.A.G 'Scell
25.	Sriprasad Bhattacharjee	Acctt	Loan-1
26.	Suban Guynry	C/T	Record
27.	Pacimal Sarkar	do	CA-11
28.	Dipali Mandal	do	CA-7
29.	Durga Basak	do	CA-12
30.	Ira Dhar	do	CA-5
31.	Prrojit Roy	Sr Acctt	Cash
32.	Subash Ch. Sen	do	W.M-2
33.	Debabrata Choudhury	S.O	W.M-3
34.	Samir Bhattacharjee	S.O	F.C
35.	Mritunjoy Debray	Sr Acctt	Pen-1
36.	Bidyut Sen Farkayastha	Sr Acctt	Pen-2
	Shim Kr Das	Sr Acctt	Pen-4

(106) 35
ANNEXURE - T

To

1st December, 1998.

The Deputy Accountant General(A).
Office of the Accountant General(A&E) Assam,
Beltola,
G.U.W.A.H.A.T.I. - 781 029.

Sub: REPLY OF MEMO NO. DAG(A)/PC/BG/139 DATED. 30-11-98.

Sir,

With reference to your memo no. DAG(A)/PC/BG/139 dated 30/11/98, I like to mention here that Sri Bimalendu Gupta, Sr. Accountant, joined in CA-7(B) section on 27-8-98 since that date till 18-9-98 he did not do any work. He was putting his initials in the attendance register and leaving office without any body's permission. Hence, he was served with a memo on 9/9/98 by the Senior Accounts officer, I/c. CA-7 section asking him to show his output, but he is yet to submit the reply of that memo.

Incidentally, It may be mentioned on 2/9/98 and 18/9/98 Sri Gupta, Sr. Acctt., was allotted with the compilation work of Goalpara Treasury for the months of 06/98 and 07/98 respectively. Although he was unofficially asked to do the compilation work in the Senior Accounts Officer's chamber from 27/9/98 to 12/11/98 but he did not do his job till date. Finding no other alternative Senior Accounts officer, i/c CA-7 section asked him to shift to the section on 13-11-98 since then he is putting his initials in the attendance register and leaving office without permission of the superioffs.

Yours faithfully,

(Signature) 12/12/98
ASSISTANT ACCOUNTS OFFICER
I/C CA-7 SECTION

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM, MAIDAMGOAN, BELTOLA,
GUWAHATI-29.

The Deputy Accountant General (Admin)
S/o. of Accountant General of Assam
Beltola, Guwahati-29.

ANEXURE-11

No-DAG (A)/PC/BG/139
D.M.

Date- 30-11-98

With reference to your office memo No. DAG (A)/PC/BG/130 dt. 12-11-98, I beg to state that on 18-9-98, the undersigned, in his service has never intentionally failed to attend or has violated the official working time as fixed by the Govt. of India. The Asstt. Accounts Officer, S/o CA-7 memo dated 9-9-98, i/c CA-7 Section (Legal) is not proper and based on facts & copy of the reply of the A.A.O. memo dated 9-9-98 is enclosed for your kind information and necessary action.

2. In regard to compilation work, the details of working given below, In reply to this office memo No. DAG (A)/PC/BG/130 dt. 12-11-98 Shri Bimalendu Gupta, Sr. Acctt. stated that on 18-9-98 Sr. Accounts Officer i/c CA-7 Section asked him to start compilation work in his chamber which is free from dust etc. Apart from that till date, the A.A.O. i/c CA-7 and Section failed to provide him compilation work. Start compilation work is placed in compilation work.

It is therefore, requested to know the real fact for better allocation of work to Shri Gupta, Sr. Acctt. within 3 days to the undersigned for necessary action at this end. working material is placed in compilation work.

Under the circumstances, I beg to request you to kindly consider above facts and exempt me from the charge I beg further to request you to kindly to consider my representation dated 28-6-97 and remove my name from the compilation work which is not fit for my position and as such not suitable to my health as advised by my attending physician.

I shall be much obliged if you will do this favor. I shall remain ever grateful to you.

Yours, Guwahati
the 27th Nov, 1998

Enclos: 1 (one)

Yours, Guwahati
the 27th Nov, 1998
Dy. Accountant General (A)

CAG(A)

Guwahati
27 Nov, 1998

Guwahati
27 Nov, 1998

To

The Accountant General(A&E) Assam,
Moidamgaon, Beltola,
Guwahati-29.

Sir,

I beg most respectfully to draw your kind attention and to state that, I am on receipt of Deputy Accountant General(Admn) letter No.DAG(A)/PC/BG/151 dated 4.12.98 and surprised to know that my service from the period commencing from 27.9.98 to 12.11.98 has been held to be "Dies non" and I beg to most respectfully to state as follows :

a) I come regularly to office and leave office as per office norms. I came to office also from 27.9.98 to 12.11.98 in time and leave office after office hours.

b) It is also not correct that I did not do my job. I did my job in humble way, very sincerely in the i/c Senior Accounts officer's Chamber of CA-7(B) as per order of Sr.Accounts officer and hence your honour is wrongly reported for the best reason known to the reporter alone. It is pain me verymuch why such a false information has been tabled before the Administration.

c) The work entrusted to me is almost completed and it will take some time for final touch. In view of the position explain, above question of "dies non" does not arise at all and this may kindly be reconsidered to meet the end of Justice. The "dies non" will effect my service career, apart from economic hardship, as it is based on incorrect report. Your honour may be pleased to be kind enough and be further pleased to cancell the above "dies non" order dated 4.12.98.

2. In regard to letter No.DAG(A)/PC/BG/130 dated 12.11.98 I beg to state that I replied to the letter as stated in the above reference, there I clearly stated that the contents made in the said letter are not correct and allegations are false.

In view of the circumstances both the letter as stated above may kindly be treated to be cancelled and exempt me from the break of service and financial hardship. A copy of the reply made on 28.8.98, 9.9.98 and 27.11.98 are enclosed for your kind perusal. For this act of your kindness I shall remain ever grateful to you.

Dated, Guwahati
the 12th January, 1999

Yours faithfully
Bimalendu Gupta
(Senior Accountant) 12/1/99

AAO (Conf.)

Sri Bimalendu Gupta. In Acctt. was asked to hand over and submit the Civil Accounts of Coal para Treasury for the month of 6/98 and 11/98. vide. Memo No. CA/ OR/ 68. dt. 12-2-99. and memo No. CA #/ OR/ 63. dt. 8-2-99.

He was also directed to submit a report of his work out put till date. But Sri Gupta did not submitted the work report regarding out put of his work as well as the Civil Accounts of Coal para Treasury for the month of 6/98 and 11/98 even after expiring of the time stipulated in the memo served to him. The extract of DAG(A/c)'s order at P/7 in 98. His Bill was also communicated to Sri Gupta on 8-2-99. The Voucher of Coal para Treasury for the month of 12/98. was also allotted this month to him. But this account was also not done by him and allotted to Sri N.G. Khan in addition to Sri Khan's normal work.

Earlier, Coal para Treasury for the month of 7/98. was also allotted to him. But this account was not done by him. As a reason, this account was done by other official. In fact, NIL out put of work received by the section from Sri Bimalendu Gupta till now, in spite of memo served to him in several at time.

In reply of the memo dt. 28-1-99. and 4-2-99, the explanation given by Sri Gupta on 22-2-99 is not satisfactory, as it does not indicate the out put of the work. More over, after putting his initial in the attendance Register, he hardly hits on in the section.

The voucher of 6/98 ~~was~~ still kept by him and did not handed over to the Sectional - in - charge. Till to date, as a result the compilation work by other official could not be done (he was asked to hand over the Voucher of Coal para Treasury of 6/98).

⑨

The accounts of 11/98 was however being done by ~~Sankar~~ ^{May} Niyati Chakrabarty in addition to her normal work. The accounts of 12/98 ~~was~~ which was allotted to Sri Gupta is handed over to Sri N.G. Khan in addition to his normal work.

Therefore, the accounts of Goalpara Treasury under M.H. 2202 (NTA) and M.H. 0202 of 6/98 and 12/98 may pl. be excluded for incorporation of 1/99 accounts.

Submitted.

9/3
24.2.99

S. Ad.

CCAF Section

Notes above

In view of what is stated at 'A' and 'B' prepage, if approved we may send the case to Admn section for necessary action.

2592

D. Ad. (SAC)

1. Pl. send to ~~Admn~~ (G.O.M.)
6/98 (T.D.) to 1/99
for its positivity
and to help of section
and efficient working
and to send for
Admn section
activities
G.O.M. ^{26.2.99}
G.K.L. ^{26.2.99}
Dab) ^{25/2/99}

- 1) Why the vouchers, relating to the above Treasury A/c's, was not compiled and incorporated in the monthly civil accounts upto 11/98?
- 2) Shri Gupta may be instructed to complete the compilation of the said accounts immediately.

Sri Bimalendu Gupta, S.A.o.H. is instructed to complete the compilation of the Goalpara Treasury for the month of 6/98 and 11/98 accounts immediately.

S. B. Gupta
28.1.99
A.A.O. c/c. CA 7(B)
S.A.o.H.

Forwarded to

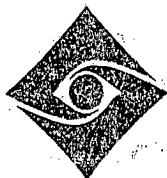
Sri Bimalendu Gupta, S.A.o.H. CA 7 (B) Section.

W.M.
B.M.D.
28/1/99

CON. DAG (A/Cs), WM, Deposit, PF, GE, AC, Pension & CASS-5, CAP-21, 22, 23 & 24 of
Audit Office and cell.
Sr. Accounts Officer.
Shubham

मरि : लेखा, असम, गुवाहाटी
GRAM : ACCOUNTS, ASSAM, GUWAHATI

फक्स :
61 - 562954
दूरभ
Telephone : 561200
565901



लोकहितसंस्थनिका

ANNEXURE VII

कार्यालय

महालेखाकार (ले.ब.ह) असम
गुवाहाटी - 781 005

OFFICE OF THE
ACCOUNTANT GENERAL (A&E) ASSAM
GUWAHATI - 781 005

सं. :

No. : DAG (A)/PC/BG/151

गुवाहाटी दिनांक

Dated Guwahati

4-12-98.

In response to this office Memo No. DAG (A)/PC/BG/130 dt. 12-11-98 Shri Bimalendu Gupta, Sr.Acctt. stated that Asstt. Accounts Officer, i/c. CA-7 Section failed to provide working materials related to compilation work. On scrutiny, it is seen that on 2-9-98 and 18-9-98 Shri Gupta, Sr.Acctt. was allotted with the compilation work of Goalpara Treasury for the months of 6/98 and 7/98 respectively. He was asked to do the compilation work in the Sr.Accounts Officer's chamber from 27-9-98 to 12-11-98 but he did not do his job except putting his initials in the attendance register and leaving office without permission of the superiors.

In view of the above, the undersigned is hereby ordered that absence from work in respect of Shri Bimalendu Gupta, Sr.Acctt. from 27-9-98 to 12-11-98 may be treated as 'dies-non'. ✓

A. S. Boddheria
Dy. Accountant General (Admn).

Memo No. DAG (A)/PC/BG/152-157.

Date: 4-12-98

Copy for information and necessary action :-

1. Sr.A.O. i/c. Admn.
2. S.O. i/c. Admn-I
3. S.O. i/c. Admn-II

They are requested to make necessary entry in the service records as well as adjustment on pay bill.

P.T.O.

12
ANNEXURE-VIII
14

OFFICE OF THE ACCOUNTANT GENERAL (A&K) ASSAM,
MAIDAMGAON, BKTOLA, GUWAHATI - 781 029

DAG(A)/PC/BG/179

20TH JANUARY, 1999

In response to this office letter No. DAG(A)/PC/BG/151 dated 4.12.1998, Shri Bimalendu Gupta, Sr. Accountant stated that he did his job in the V/c. Senior Accounts Officer's chamber of CA-7(B) Section which is not tallying with the report available in this regard.

He is hereby informed that his request cannot be acceded to at this stage.

X. Siddhartha Singh
DY. ACCOUNTANT GENERAL (ADMN)

Shri Bimalendu Gupta
Sr. Accountant
CA-7 (B) Section.

*Shri S. Singh
20/1/99*

disciplinary action already initiated against him (unless he is placed under suspension) and the disciplinary action concluded as quickly as possible. The question of regularisation of the period of overstayal of leave be left over for consideration till the finalisation of the disciplinary proceedings.

(iii) If a Government servant absents himself abruptly or applies for leave which is refused in the exigencies of service and still he happens to absent himself from duty, he should be told of the consequences, viz., that the entire period of absence would be treated as unauthorised, entailing loss of pay for the period in question under proviso to Fundamental Rule 17, thereby resulting in break in service. If, however, he reports for duty before or after initiation of disciplinary proceedings, he may be taken back for duty because he has not been placed under suspension. The disciplinary action may be concluded and the period of absence treated as unauthorised resulting in loss in pay and allowances for the period of absence under proviso to F.R. 17 (1) and thus a break in service. The question whether the break should be condoned or not and treated as *dies non* should be considered only after conclusion of the disciplinary proceedings and that too after the Government servant represents in this regard.

2. It is made clear that a Government servant who remains absent unauthorisedly without proper permission should be proceeded against immediately and this should not be put off till the absence exceeds the limit prescribed in Rule 32 (2) (a) of the CCS (Leave) Rules, 1972. However, the disciplinary authority should consider the grounds adduced by the Government servant for his unauthorised absence before initiating disciplinary proceedings. If the disciplinary authority is satisfied that the grounds adduced for unauthorised absence are justified, the leave of the kind applied for and due and admissible may be granted to him.

[D.G., P. & T.'s Letter No. 6/28/70-Disc. I (SPB-I), dated the 5th October, 1975.]

3. In the case of a temporary Government servant remaining absent in excess of the limits laid down in Rule 32 (2) (a) of the CCS (Leave) Rules, 1972, disciplinary proceedings under Rule 14 of the CCS (CCA) Rules should be initiated and the case processed in the usual manner.

[Rule 65, P. & T. Manual, Vol. III.]

(6) **When a day can be marked *dies non* and its effect.**—Absence of officials from duty without proper permission or when on duty in office, they have left the office without proper permission or while in the office, they refused to perform the duties assigned to them is subversive of discipline. In cases of such absence from work, the leave sanctioning authority may order that the days on which work is not performed be treated as *dies non*, i.e., they will neither count as service nor be construed as break in service. This will be without prejudice to any other action that

the competent authorities might take against the persons resorting to such practices.

[Rule 62, P. & T. Manual, Vol. III.]

(7) **No marking of *dies non* for late-coming.**—According to Instructions above the day can be marked as *dies non* by the leave sanctioning authority only under three circumstances, viz.,—

- (i) when the official remains absent from duty without prior information;
- (ii) when on duty in office, the official leaves the office without proper permission; and
- (iii) the official remains in office, but refuses to perform duty assigned to him.

From the conditions mentioned above, it is clear that an official can be marked as *dies non* even if he performs duty for a part of the day in case he leaves office without proper permission or when he refuses to perform duties while remaining in office. But a day on which an official comes late and works throughout the day during office hours will not be marked as *dies non*. It is accordingly clarified that treating the day as *dies non* for coming late is not contemplated in the rules. The proper course in such cases would be to debit the casual leave account of the official as per instructions issued from time to time.

[D.G., P. & T.'s Letter No. 10-44/79-PE, II, dated the 26th November, 1979 and Dept. of Telecom., Letter No. 15-26/86-TE II, dated the 2nd March, 1989.]

(8) **Action to be taken for late-coming when no casual leave at credit.**—The existing instructions provide for deducting half-a-day's casual leave when a Government servant comes late without sufficient justification and the competent authority, which not considering it as a fit case for initiating disciplinary action, is also not prepared to condone the late-coming. Sometimes, it so happens that a Government servant who comes late without sufficient justification has no casual leave to his credit and it is not, therefore, possible to debit half-a-day's casual leave to his casual leave account. The question has, therefore, been raised by many Ministries and Departments, as to how such a situation is to be met.

2. The matter has been examined in consultation with the Ministry of Law, and it has been decided that if an official who has no casual leave to his credit, comes late without sufficient justification and the administrative authority concerned is not prepared to condone the late-coming but does not, at the same time, propose to take disciplinary action, it may inform the official that he will be treated as an unauthorised absence for the day on which he has come late, and leave it to the official himself either to face the consequences of such unauthorised absence or to apply for earned leave or any other kind of leave due and admissible for the entire day, the same may be sanctioned by the competent authority.

[G.I., M.H.A. (D.P. & A.R.), O.M. No. 28034/3/82-Ests. (A), dated the 5th March, 1982.]

8 OCT 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
Guwahati Bench

OA. NO. 245 of 2001

Bimalendu Gupta ... Applicant

-Vs-

Union of India and Ors... Respondents

Replies to the written statement filed by the respondents on 17.8.2001.

The statements made in the written statement, which are not specifically replied may be treated as denied.

1. That the replies to the written statements made in para 2, 4, 5, 6, 7, & 10 the applicant states that the statements of the respondents are false and motivated. According to Annexure-II of the respondent it is clear that the respondent No.5 the Senior Accounts officer of CA-7 failed to allot any work to the applicant and the applicant was unofficially entrusted to do the work in the chamber of respondent No.5 from 27.9.98 to 12.11.98 (Annexure-II) and accordingly the statement made so far as diss-mon is concerned is willful, misuse of power, baseless and is liable to be set aside.

2. That with regard to statements made in para 2 of the written statement the applicant states that the Hindi Training of Prabin was conducted in the office of the Respondent No.3 for a period of 5 months from 15.7.98 vide Admin. Order No.105 dated 8.7.98 (Annexure-I) to the written statement. But this is not correct because in the aforesaid letter dated 8.7.98 there is no mention that the training will be conducted for 5 months. The applicant states that he attended Hindi Training for 13 days during the period from 27.9.98 to 12.11.98. In fact, the training period was spread over from 27.9.98 to 9.11.98 and the examination of Hindi was held in 12.11.98. As a matter of fact, the Hindi training was held only for 13 days (two days in a week) out of 47 days.

contd...2.

44
First copy for the applicant
through
S. N. Deka
C. H. K. Deka
Advocate

Out of 47 days, there were ~~holidays~~ for 18 days (being sundays and saturdays and 2 days gazetted holidays are on 27.9.98, 2.10.98, 3.10.98, 10.10.98, 17.10.98, 24.10.98, 31.10.98, 4.10.98, 11.10.98, 18.10.98, 28.10.98, 1.11.98, 7.11.98 and 8.11.98) wrongly declare absence from duty and deducted pay and allowances. The applicant also states that he attended office regularly on all the working days during the dies-non period of 47 days and this will be proved from the attendance Register where he put his initials regularly. So it is not correct to say on the part of respondents that the applicant mis-represented the facts. Rather, the respondents have misrepresented facts in the written statement and declaring the said Hindi training periods and holidays as dies-non (Annexure-I) spread over the period from 27.9.98 to 12.11.98 is a violation of constitution of India.

3. That with regard to the statements made in para 3 of the written statement the applicant states that it appears from Annexure-II to the written statements that no compilation work was officially entrusted to the applicant. The Asstt. Accounts officer i/c CA-7 himself has admitted vide his letter dated 1.12.98 to the Deputy Accountant General (Admn.) (Annexure-II) to the written statement that the applicant was entrusted the compilation work of Goalpara Treasury for the month of 6/98 and 7/98 un-officially to do the said work in the officers' chamber of the Senior Accounts officer i/c CA 7 from 27.9.98 to 12.11.98. It is very much pertinent to mention here that the applicant was not supposed to do any work on 12.11.98 on which date he sat in the Hindi Pravin examination. The applicant was entrusted unofficially the compilation work and not officially. So if the applicant did not do the work unofficially allotted to him, he could not be held responsible for not doing the work. Therefore, the statements made by the respondents in this regard is totally incorrect and baseless.

4. That with regard to statements made in para 4 to the written statement it may be stated that since the compilation work of Goalpara treasury for the month of 6/98 and 7/98 was entrusted to the applicant unofficially as per statement made by Asstt. Accounts officer in Annexure-II to the written statement the question of doing

contd...3.

Wb

the work officially by the applicant does not arise. The applicants also states that he had never left office during office hours on putting his initial in the attendance Register. As such, the question of taking permission from his superior does not also arise. The respondents have also admitted in the written statement, ^{that} they have wrongly deducted the pay and allowances of the applicant treating 12.11.98 as absence from duty, but failed to mention the pay and allowance deducted wrongly for the period of holidays also. From the facts stated above it is quite clear that the period from 27.9.98 to 12.11.98 (47 days) which has been declared as dies-non by the respondents is nothing but malafide and motivated action. This is untenable in Law.

5. That regarding the statements made in para 5 of the written statement, the respondents have admitted that they have recovered the pay and allowances of Rs.12,109/- from the salary of the applicant in four instalments because of declaration of the period from 27.9.98 to 12.11.98 (47 days) as "dies-non". Since the declaration of the aforesaid period as "dies-non" itself is not according to rules, regulations and in law, the amount recovered from the salary of the applicant amounting to Rs.12,109/- should be refunded to the applicant in one instalment.

6. That with regard to the statements made in para 6 of the written statement, it has been stated that the applicant has been given a reply vide memo No. DAG(A)/PC/BG/179 dated 20.1.99 in response to his representation, the date of applicant's representation is not mentioned therein. The Asstt. Accounts officer i/c CA-7 section has in his letter dated 1.12.98 has stated that the compilation work of Goalpara treasury for the month of June and July, 1998 was entrusted to him unofficially. The applicant has stated in his representation dated 12.1.99 that he attended office regularly and left office after office hours as per office norms that the work entrusted to him was almost complete and would take some time to give a final touch. Thus the report dated 1.12.98 of the Asstt. Accounts officer i/c CA-7 to DAG's letter dated 20.1.99 to the applicant there is no reference to applicant's representation dated 1.12.98. So the whole thing is confusing. The only way to find out the real truth is that the respondents should produce the attendance register for the period from 27.9.98 to 12.11.98 before this Hon'ble Tribunal for perusal as to whether the applicant attended and left office in time or not.

If the applicants initials for attendance are there in the attendance Register for the above period, it can not be alleged that he was absent from his duties without permission. As such, the aforesaid period of 47 days has been declared as "dies-non" illegally and the amount already recovered from the salary of the applicant should be refunded to him in one instalment, and that too, with interest @12% per annum from the date of recovery till the date of the refunded o-f the amount.

7. That with regard to the statements made in para 7 of the written statement, it has been stated that the "diesnon" for the period from 27.9.98 to 12.11.98 was imposed after due verification ~~in~~ of material facts available after receiving a report from the Asstt. Accounts officer and Senior Accounts officer of CA 7 under whom shri Gupta was working in the said period.

It may be stated in this connection that reports received from the Asstt. Accounts officer and Senior Accounts officer of CA-7 section, was completely wrong and incorrect because of the facts that this officers had submitted the reports without examining the attendance Register for the above period. The attendance register for the above period will clearly show that the applicant attended office regularly and left office after office hours.

It may also be stated here that the applicant ~~allotted~~ did his unofficially, duties before and after training hours during the above period in the chamber of the Sr. Accounts officer, ~~where he was shifted to~~ It may further be added here that there was no sitting arrangement i.e. separate sitting chair and table) in the office chamber of the Senior Accounts officer i/c CA-7. Rather, the applicant had to do his work ~~at~~ allotted to him unofficially to ~~the~~ in the same table of the Sr. Accounts officer with ~~great~~ discomfort even though it is not the established official norms that a senior Accountant will work in the official chamber of the Senior Accounts officer of CA 7, and is ~~motivated~~.

It is stated that the action taken by the authority to declare the aforesaid period as dies-non is perfectly in order as provided under CIG 6 below Rule 11 of CCS(CCA) Rule 1965(Annexure-IX) to the written statement.

The rule referred to above is very much confusing. The said Rule, inter alia, states as follows :

" In case of such absence from work the leave sanctioning authority may order that the days on which work is not performed ^{ed} may be treated as "dies non" i.e. they will neither count as service nor be construed as break in service".

On a perusal of the above Rule, it is true that dies-non has been declared by the authority on the principle of 'no work no pay'. But it is not understood as to why the dies-non period will ^{not} either count as service, nor be construed as break in service."

Anyway, when the applicant has stated that he was very much present in the office as the Attendance Register will amply prove his presence in office and that he did his work which was unofficially allotted to him, the question of declaring the period from 12.9.98 to 12.11.98 (47 days) as "dies-non" does not arise at all. But the same has been done by the authority arbitrarily and illegally. So the amount of Rs. 12,109/- which has been recovered from the salary of the applicant should be refunded to him in one instalment, and that too, with interest @ 12% per annum from the date of recovery till the date of refund.

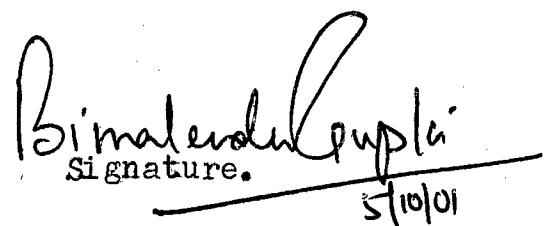
8. With regard to para 8, 9, 10, 11 & 12 the applicant has nothing to reply.

Verification.....

v e r i f i c a t i o n

I, Shri Bimalendu Gupta, son of late Biswanath Gupta, aged about 45 years, resident of Barthakur Mill Road, Ulubari, Guwahati-7 do hereby state and verify that the statement made above are true to my knowledge and belief.

And I sign this verification this 5th day of October, 2001 at Guwahati.


Bimalendu Gupta
Signature.
5/10/01

• • •