

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Appelcation No. 59 /2001

in O.A. 410/2001

Appelcant(s) :- T. J. Singh

Respondant(s) :- H.O.I Poms

Advocate for the Applicant :- M. Bimal Sharma

Advocate for the Respondant :- CASE

Notes of the Registry	Date	Order of the Tribunal
This Contempt petition has been filed by the learned counsel for the petitioner praying for wilful disobedience of the order dated 8.10.2001 passed by this Hon'ble Tribunal in O.A. 410/2001	12.11.01	<p>Heard Mr. Bimal Sarma, learned counsel for the applicant.</p> <p>Issue notice, returnable by four weeks. Mr. A.K. Chaudhury, learned Addl. C.G.S.C accepts notice on behalf of the respondents.</p> <p>List on 14.12.2001.</p> <p><i>K. Ushah</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>bb</p> <p>Read before the Hon'ble Court for further orders.</p> <p><i>[Signature]</i> 12/11/01 Section Officer</p>	14.12.01	<p>Sri A.K. Choudhury, learned ADDL. C.G.S.C. informed that the O.A.s 410/2001 and 409/2001 are listed today. and requests the C.P. to be listed later.</p> <p>List on 18.1.2002 for order.</p> <p><i>K. Ushah</i> Member</p>
<p>P.L. Campes order</p> <p>Dtd 12/11/2001</p> <p><i>[Signature]</i> 13/12/01 Notice Reford and sent to D/S for the Respondent No 1 to 4 by Regd. A.N.</p> <p>D/No 4296-99</p> <p>Dtd 20/1/07</p>	18.1.02	<p>mb</p> <p>List on 22.1.02 before Division Bench.</p> <p><i>K. Ushah</i> Member</p>
	1m	

CP 59/04 (of 4/0/2001)

- 2 -

The counter has
been filed their
appearance at P-
to - 28.

JNS
17/02/02

22.1.02

Heard Mr. A.K. Choudhury, learned
Addl. C.G.S.C. for the respondents.

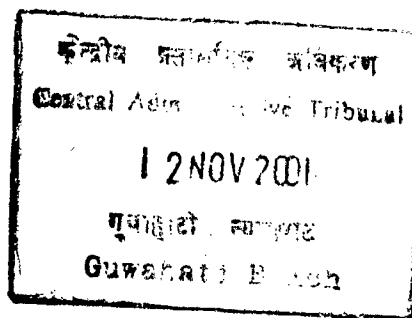
Since the Original Application
No. 410/2001 has already dismissed on
withdrawal, ^{also} even we do not find any merits
^{in continuing him} of the Contempt proceeding. Accordingly,
the C.P. stands dismissed.

Recd copy
A.K. Choudhury
Addl C.G.S.C.
13/2/02

1 C. Choudhury
Member

Vice-Chairman

mb



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI :

GUWAHATI CIVIL ORIGINAL
(CONTEMPT) NO. 59 OF 2001
Ref : In Application No. 410 of 2001

Shri T. Joykumar Singh ... Petitioner

Vrs.

Shri G.N. Chyne and ors ... Respondents

I N D E X

Sl.No.	Description of documents relied upon	Page No.
1.	Application	1 to 4
2.	Affidavit	5 - -
3.	Annexure A/1 (Order dated 8-10-01 of the Tribunal)	6 - -
4.	Annexure A/2 (Intimation letter dt. 10-10-2001)	7 - 8
5.	Annexure A/3 (Joining report dt. 18-10-2001)	9 - -

By : [Signature]
Advocate

Signature of the applicant

[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI :

Presented on 12-11-09.

(Til. E. S. Sharma)
ADVOCATE

GUWAHATI CIVIL ORIGINAL
(CONTEMPT) NO. 59 OF 2001
Ref : In Application No. 410 of 2001

IN THE MATTER OF -

An Application under section 12 of the Contempt of Courts Act, 1971 for wilful disobedience of the order and directives of this Hon'ble Tribunal dated 8-10-2001 passed in Application No. 410 of 2001 (Annexure A/1);

AND

IN THE MATTER OF -

Rule 4 of the Central Administrative Tribunal (Contempt of Courts) Rules, 1986;

AND

IN THE MATTER OF -

Shri Takhellambam Joykumar Singh, s/o late T. Gourchand Singh, resident of Top Awang Leikai, Imphal East District, Manipur, at present working as Junior Telecom Officer (Planning), Office of the General Manager Telecom District, Manipur, Imphal-795 001, Bharat Sanchar Nigam Ltd.

...PETITIONER

-Versus-

1. Shri G.N. Chyne,
Asstt. General Manager (Admn), Office of the Chief General Manager, N.E. Telecom Circle-I, Shillong - 793 001, Bharat Sanchar Nigam Ltd.

... 2. Shri

Joykumar Singh

-(2):-

2. Shri J. Lumkin,

Deputy General Manager, Office of the
General Manager Telecom District, Manipur,
Imphal - 795 001, Bharat Sanchar Nigam Ltd.

3. Shri K. Lal,

Divisional Engineer (P&A),
Office of the General Manager Telecom
District, Manipur, Imphal - 795 001,
Bharat Sanchar Nigam Ltd.

4. Shri N.I. Singh,

Divisional Engineer (Rural), and presently
in charge of D.E. (P&A), Office of the General
Manager Telecom District, Manipur, /
Imphal-795 001, Bharat Sanchar Nigam Ltd.

.... RESPONDENTS

Most respectfully Sheweth :

1. That under a petition filed by the named above
Petitioner against the Respondent No. 1 and 3 and other, this
Hon'ble Tribunal has been pleased to pass an order suspending
the operation of the impugned order dated 6-9-2001 of the
Respondent No. 1 concerning the petitioner vide order dated
8-10-2001 passed in Application No. 410 of 2001 of this
Tribunal.

Annexure A/1 is the copy of the
order dated 8-10-2001.

.... 2. That

Jay Kumar Singh

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-:(3):-

2. That the counsel of the Petitioner communicated the suspension order of this Tribunal to the Respondent Nos. 2, 3 & 4 and they received the same on 11-10-2001 vide communication letter dated 10-10-2001.

Annexure A/2 is the copy of the
communication letter dt. 10-10-2001
showing the receipt dt. 11-10-2001.

3. That the Respondent No. 1 was communicated by this Hon'ble Tribunal.

4. That on 18-10-2001, the Petitioner submitted his joining report ^{on} ~~completion~~ ^{period} of his leave ~~taken~~ taken on Medical ground with an intimation that the transfer order was already suspended by this Hon'ble Tribunal.

Annexure A/3 is the copy of the
joining report dated 12-10-2001.

5. That, however, till date the respondents do not allow the Petitioner to join duty and no communication has been made why the petitioner shall not be allowed to join duty. ~~The petitioner has been informed that his pay is not prepared in spite of the suspension order of this Hon'ble Tribunal.~~ It is submitted that the Petitioner has not yet handed over the charges to any official and he has not been asked to hand over the charges to any officials by any officials. He has not been released by any officials and as such there is no question why the petitioner should not be allowed to join duty in view of the suspension order of this Hon'ble Tribunal.

6. That the Petitioner is learnt that the petitioner is not allowed to join duty on the instructions of the Respondent Nos. 1 and 2. The Respondents are in adamant and

.... inspite of

Jay Kumar Singh

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-:(4):-

inspite of knowing that a Contempt proceeding shall be taken up if the directives or the order of this Hon'ble Tribunal is violated or disobeyed, It is humbly submitted that the Respondents wilfully disobeyed the directives of order of this Hon'ble Tribunal passed on 8-10-2001 in Application No. 410 of 2001, and hence, the Respondents have committed Contempt of Court punishable under section 12 of the Contempt of Courts Act, 1971.

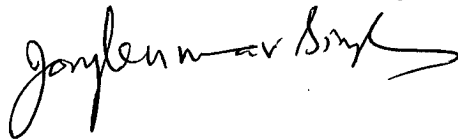
7. That under such circumstances stated above the Petitioner prays that the Hon'ble Tribunal be pleased :-

- (a) to admit this petition;
- (b) to direct the respondents to be present in person before this Hon'ble Tribunal;
- (c) to punish the Respondents for Contempt of Court;

or otherwise

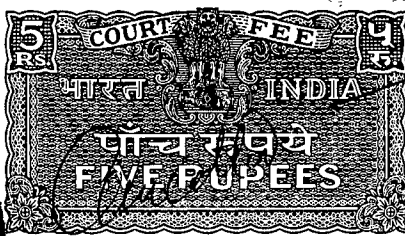
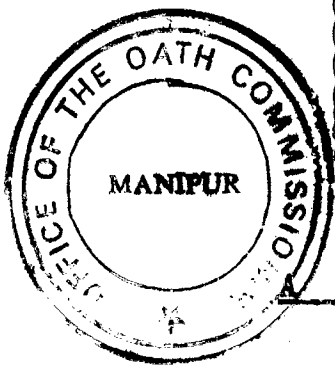
- (d) to pass any other such order or directive which the Hon'ble Tribunal may deem fit so that the petitioner may get his relief in the interest of justice.

Signature of the Petitioner



..... AFFIDAVIT





29.10.2001

-(5):-

A F F I D A V I T

I, Shri Takhellambam Joykumar Singh, aged about 39 years, son of late T. Gourchand Singh, occupation employee of Bharat Sanchar Nigam Ltd., Department of Telecommunication, resident of Top Awang Leikai, P.S. Porompat, Imphal East District, Manipur, do hereby solemnly affirm and say as follows :

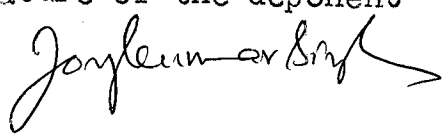
1. That I am the Petitioner in the accompanying petition and as such I am fully acquainted myself with the facts of the case. This is true to my knowledge.
2. That the statements in paragraph Nos. 1 to 7 except the legal points of the accompanying petition are true to my knowledge and true to the records and the legal points are my humble submissions. The Annexures A/1, A/2 and A/3 are from my personnel records received in my official capacity and also from the records maintained by me. This is true to my knowledge.

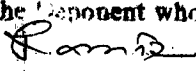
Verified that the contents of para No. 1 and 2 above are true to my knowledge and believe and humble submissions.

Imphal, the
29th October, 2001

By : 
Advocate

Signature of the deponent



Solemnly affirm before me on...29.10.2001
at...2 PM...at the Court premises
by the Deponent who is identified
by  Adv...
The Deponent seems to understand
the contents fully well on the
being read over and explained to him.


29.10.2001
Oath Commissioner
Manipur

FORM No. 4
(Sec Rule 42)

ANNEXURE A/1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO.

410 / 2001

Applicant(s) T. J. Singh

Respondent(s) C. U. I. Com

Advocate for the Applicant: M. Poronel Sharma

Advocate for the Respondent: Case

Notes of the Registry

Date

Order of the Tribunal



Certified to be true Copy
प्रमाणित प्रतिलिपि

W.S. 8/10/2007

Section Officer (J)
कायदा अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायपीठ, गुवाहाटी-8

6.10.01 Present: Hon'ble Mr. Justice D.N. Chowdhury,
Vice-Chairman.

Hon'ble Mr. K.K. Sharma, Member (A).

Issue notice as to why the application shall not be admitted. Notice returnable by four weeks. List on 23.11.2001 for further orders.

Heard Mr. M. Rimal Sharma, learned counsel for the applicant on the interim prayer.

Issue notice as to why the interim prayer shall not be granted suspending the order dated 6.9.2001 relating to the transfer of the applicant - T. K. J. Singh from Manipur SSA to Mizoram SSA. Returnable by four weeks. Mr. A.K. Choudhury, learned Addl. C.G.S.C. accepts notice on behalf of the respondents. List on 23.11.2001 for further orders. Meanwhile the operation of the impugned order dated 6.9.2001 shall remain suspended concerning the applicant - T.K.J. Singh. Singh.

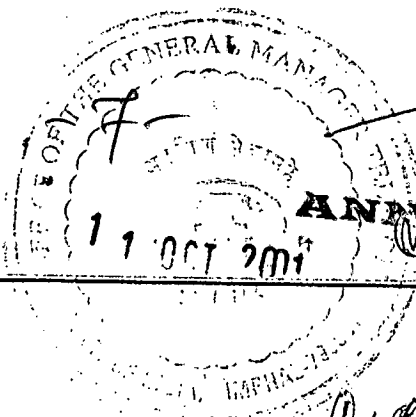
Jaylennar Singh

sd/- Vice Chairman
sd/- Member (A)

Mr. Bimol Sharma

B.A. (Hons.) LL.B., Advocate

Nagamapal, Singjabung Leirak
Imphal - 795 001



P. No - 130

411555

ANNEXURE A/2

R.f. No.

Date 10-10-2001

To

The DGM Telecom,
Bharat Sanchar Nigam Ltd.,
O/o General Manager Telecom District,
Imphal - 795 001, Manipur.

①, A DGM (P,

②, DE (P&A).

Sub : Intimation of Court Order and
necessary action - please :

Sir,

Under the rules, I am intimating the Court Order on behalf of the Applicants who are my clients viz, (1) Shri A. Jasobanta Singh, JTO/Senapati and Shri T.K. Joykumar Singh, JTO/Planning of Manipur SSA that they have preferred applications before the Central Administrative Tribunal, Guwahati Bench, Guwahati, challenging their transfers from Manipur SSA to Mizoram SSA issued by the AGM(Admn), O/o CGM, N.E. Telecom Circle-I, Shillong vide his order No. STB/BS-3/Tenure/XII, dated at Shillong 6th September, 2001. The application of Shri A. Jasobanta Singh registered as Application No. 409 of 2001 and that of Shri T.K. Joykumar Singh as Application No. 410 of 2001 respectively before the Administrative Tribunal.

The Division Bench of the Hon'ble Administrative Tribunal vide order dated 8-10-2001 suspended/stayed the order dated 6-9-01 of the AGM(Admn) stated above concerning the transfer order of the two applicants.

Xeroxed copies of the Order passed in Application No. 409 and Application No. 410 both of 2001 are enclosed herewith for your kind reference.

In consequent of the said transfer order, the D.E.(Admn) of this Office issued an order dated at Imphal 18-09-01 bearing No. EST-2/JTO/TFR transferring the two applicants and posted to the SSA'S noted against in the

.... said transfer

Joykumar Singh

3
M. Bimol Sharma

B.A. (Hons.) LL.B., Advocate
Nagamapal, Singjubung Leirak
Imphal - 795 001

411555

Ref. No.

Date 10-10-2001

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-:(2):-

said transfer order dated 6-9-01. In this respect I request you kindly to issue necessary instructions since the transfer order issued by the AGM(Admn) has been suspended against the two applicants and as such the order mentioned above has to be reviewed in the light of the Hon'ble Central Administrative Tribunal's order so that the two applicants may continue to stay in their present post of JTO/Senapati and JTO/Planning, Manipur SSA respectively.

I am told that the two applicants have not yet handed over charges to any officer in consequence of the transfer order and no telecom authority has asked them to hand over the charges to any officials till date. So, I, therefore, request you kindly to issue such instructions as deem fit in the interest of all concerned.

Your quick and kind action is highly appreciated.

Sincerely yours,

(M. Bimol Sharma)
Advocate

Copy to :

1. D.E. (T), for information and n/a;
2. D.E.(P&A), for information and n/a;
3. SDO(T), Senapati, for information and n/a.

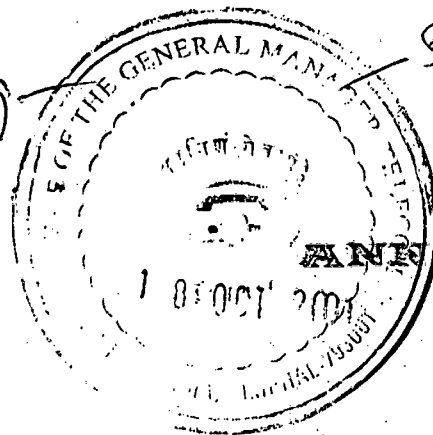
I am informed that struck off order(s) has/have been issued and request to call of the S.O. Order since the transfer order in respect of the two applicants has/have been suspended by the Hon'ble Tribunal mentioned above.

(M. Bimol Sharma)
Advocate

Jaykumar Singh

To

The D.E.(P&A),
O/o GMTD Manipur,
Imphal - 795 001.



ANNEXURE A/3

Imphal, the 18th October, 2001

Sub : Joining Report :

Sir,

My Medical Leave period expired on 17-10-2001 and another fact is that the transfer order dated 6-9-2001 of the Asstt. G.M., Shillong affecting me has been suspended by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati vide order dated 8-10-2001 passed in Application No. 410 of 2001. My advocate already communicated the order by giving copy to you also. I learnt that 'Struck-off' order had been issued during my leave period but I have not yet received the order till date. I have not yet handed over the charges to any body and no superior office and any other person/officer has ever asked me to hand over the charges to anybody. No release order has also been issued and as such I may be allowed to join my duty w.e.f. 18-10-2001 forenoon.

As instructed I may be allowed to mention that at first charge should be handed over than release order should be issued, thereafter struck off order should be issued. But in my case there is no handing over of charges and no release order has been issued.

I may further add that since the transfer order has been suspended by the Hon'ble CAT, any other order including the 'Struck-off' order cannot be existed.

Enclose :- Medical fitness
Certificate

Yours faithfully,

(T.K. Joukumar Singh)
JTO/Planning, i/c
SDE/Planning of O/o
GMTD/Manipur, Imphal.

- 10 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI
17 JAN 02
CONTEMPT PETITION NO 59/01
IN OA.NO 410 OF 2001.

Shri T.J.Singh.....Petitioner

Vs.

Shri G.N.Chyne.....Contemner
Respondent No 1

I Shri G.N.Chyne, Asstt.General Manager (Admn) o/o the Chief General Manager, N.E.Telecom Circle-I, BSNL Shillong -1 do hereby solemnly affirm and say as follows.

1. That I have gone through the Contempt Petition and after going through the petition have understood the contents thereof.
2. That the statement made in the application save and except whatever is specifically admitted in this reply rest on the averments will be deemed to have been denied.
3. That I have the highest reverence and regard for the Hon'ble Tribunal and its order. It is however to be held on consideration of the facts and circumstances of the case that if there had been any lapse on my part, then I hereby tender unqualified apology and sincere regret for the same. I cannot even think of doing any act or omit to do any act which may be construed or treated as an act or omission amounting to contempt of court or disobedience or violation of any order of the Hon'ble Tribunal in utmost respect and regard. The transfer of an official from one arm of service to another within or outside the Circle is allowed only with the personal approval of the Head of Circle and conveyed vide order dtd. 6.9.2001 to all SSAs. The N.E.Circle is having a good number of Tenure Stations. It has been decided by the Head of the Circle that the reliever to the Tenure Station should be released in advance so that there is no occasion for delay in relieving the tenure station staff. The stay order granted by the Hon'ble Tribunal is putting the administration in a great dead lock in day to day functioning of the Department as well as the public will suffer at large.
4. That with regard to the statement made in paragraph 1 of the contempt petition I beg to state that the order dated 6.9.2001 is a common order for all SSAs and the order has already been operated and implemented. The petitioner was struck off from the strength of the Sub-Division with effect from 28.9.2001 but the petitioner has suppressed the fact and misled the Hon'ble Tribunal by which interim order dated 8.10.2001 was passed by the Hon'ble Tribunal. The petitioner has admitted in his joining report where he stated that "My Medical leave period expired on 17.10.2001 and another fact is that the Transfer order dated 6.9.2001 of Asstt G.M.Shillong affecting me has been suspended by the Hon'ble Central Administrative Tribunal Guwahati Bench Guwahati vide order dated 8.10.2001" which proves that intentionally the petitioner took leave on Medical ground and suppressed the fact to the Hon'ble Tribunal which proves that he was aware of the fact and misled the Hon'ble Tribunal. In the letter issued by Shri M. Bimol Sharma Advocate, he also admitted that "I am informed that struck off order has/have been issued and request to call off the S.O.Order since the transfer order in respect of the two applicants has/have been suspended by the Hon'ble Tribunal mentioned above". This

proves that both the applicant and the Advocate, knowing the fact of the case, suppressed the fact and misled the Hon'ble Tribunal for which the interim order dated 8.10.01 was passed by the Hon'ble Tribunal. As the struck off order was issued long back, I feel the interim order dated 8.10.2001 has no effect.

(Advocate's letter of the opposite party addressed to DGM/IP dtd.10.10.2001 is annexed here as R1).

5. That with regard to the statement made in paragraph 2 of the petition I beg to state that Shri M.Bimol Sharma Advocate of petitioner cannot instruct the Department to take necessary action as per court's order. He can intimate his clients only. By this practice the petitioner has violated Rule 20 of CCS (Conduct) Rule 1964. The petitioner has brought outside influence concerning the service matter.

(Rule 20 of CCS (Conduct) Rule 1964 is annexed here as R2).

6. That with regard to the statement made in paragraph 3 of the petition I beg to state that on receipt of the OA.No 409/01, parawise comments were submitted to the Hon'ble Tribunal through CGSC. Here I beg to state that Department has highest reverence and regard for the Hon'ble Tribunal and for which one officer is deputed to attend to all cases with relevant documents.

7. That with regard to the statement made in paragraph 4 of the petition I beg to state that the joining report submitted by the petitioner proves that intentionally the petitioner has submitted leave on medical ground and suppressed the facts to the Hon'ble Tribunal. A Government Medical Officer is prohibited, under the rules of his Department from recommending that an official be transferred from or that he be excused from proceeding to, a particular station on the score of health : nor he is at liberty to offer an opinion as to the nature of the duties or the place of employment of an official unless requested to do so by the officials superior.

(Joining Report of the petitioner is annexed here as R3 and Rule 39 related to Transfer is annexed here as R4).

8. That with regard to the statement made in paragraph 5 of the petition I beg to state that the order of Department is bound to be complied. There is no question of allowing the official to join the duty in the old station once he is struck off. In the struck off order it was clearly mentioned that the petitioner will make over his complete charge of SDE (Plg) to Shri P.Banerjee SDE (Admn) o/o the GMTD Imphal. The allegation is wrong.

9. That with regard to the statement made in paragraph 6 of the petition I beg to state that there is no authenticity in the allegations. In connection with the contempt petition I beg to state that before admission of the original application, Shri M.Bimol Sharma the Advocate of the opposite party, has sent one copy of the contempt petition which was received by me on the 8th Nov'2001 which is not at all legal. Notice should otherwise have come from the Hon'ble Tribunal.

(Advocate Notice related to Contempt Petition is annexed here as R5).

10. That with regard to the statement made in paragraph 7 of the petition regarding the ground relief sought for (a) to (d), the petitioner is not entitled to any relief sought for and hence the petition is liable to be dismissed.

11. That I beg to state that I did not violate the order dated 9.10.01 passed by the Hon'ble Tribunal, since struck off order was issued long before the interim order dated 9.10.01.

(Struck off/release order of the petitioner is annexed here as R6).

Statement made in paras are True to my knowledge based on the official records and belief.

And I sign this affidavit on this eleventh day of December 2001



DEPONENT

Solemnly affirmed and declare before me by the deponent being identified by Shri A.K.Choudhari Addl.CGSC on this..... day of

ADVOCATE

Bimol Sharma

B.A. (Hons.) LL.B., Advocate

Naga Bazar, Singjibung Leirak

Imphal - 795 001

411555

11 OCT 2001

11/10/01
11/10/01
11/10/01

Date 10-10-2001

To

The DGM Telecom,
Bharat Sanchar Nigam Ltd.,
O/o General Manager Telecom District,
Imphal - 795 001, Manipur.

(1) A DGM (P.

(2) DE (PSA).

Sub : Intimation of Court Order and
necessary action - please :

Sir,

Under the rules, I am intimating the Court Order on behalf of the Applicants who are my clients viz, (1) Shri A. Jasobanta Singh, JTO/Senapati and Shri T.K. Joykumar Singh, JTO/Planning of Manipur SSA that they have preferred applications before the Central Administrative Tribunal, Guwahati Bench, Guwahati, challenging their transfers from Manipur SSA to Mizoram SSA issued by the AGM(Admn), O/o CGM, N.E. Telecom Circle-I, Shillong vide his order No. STB/RS-3/Tenure/XII, dated at Shillong 6th September, 2001. The application of Shri A. Jasobanta Singh registered as Application No. 409 of 2001 and that of Shri T.K. Joykumar Singh as Application No. 410 of 2001 respectively before the Administrative Tribunal.

The Division Bench of the Hon'ble Administrative Tribunal vide order dated 8-10-2001 suspended/stayed the order dated 6-9-01 of the AGM(Admn) stated above concerning the transfer order of the two applicants.

Xeroxed copies of the Order passed in Application No. 409 and Application No. 410 both of 2001 are enclosed herewith for your kind reference.

In consequent of the said transfer order, the D.E.(Admn) of this Office issued an order dated at Imphal 18-09-01 bearing No. EST-2/JTO/TFR transferring the two applicants and posted to the SSA'S noted against in the

.... said transfer

Bimol Sharma

A. (Hons.) LL.B., Advocate

Agamapal, Singjabung Leirak

Imphal - 795 001

411555

Date 10-10-2001

Ref. No.

-(2):-

said transfer order dated 6-9-01. In this respect I request you kindly to issue necessary instructions since the transfer order issued by the AGM(Admn) has been suspended against the two applicants and as such the order mentioned above has to be reviewed in the light of the Hon'ble Central Administrative Tribunal's order so that the two applicants may continue to stay in their present post of JTO/Senapati and JTO/Planning, Manipur SSA respectively.

I am told that the two applicants have not yet handed over charges to any officer in consequence of the transfer order and no telecom authority has asked them to hand over the charges to any officials till date. So, I, therefore, request you kindly to issue such instructions as deem fit in the interest of all concerned.

Your quick and kind action is highly appreciated.

Sincerely yours,

(M. Bimol Sharma)
Advocate

Copy to :

1. D.E. (T), for information and n/a;
2. D.E.(P&A), for information and n/a;
3. SDO(T), Senapati, for information and n/a.

I am informed that struck off orders has/have been issued and request to call of the S.O. Order since the transfer order in respect of the two applicants has/have been suspended by the Hon'ble Tribunal mentioned above.

(M. Bimol Sharma)
Advocate

be so amended that individual employees are enabled to go to the Press to vindicate their position without prior permission was not favoured, it was decided to issue further instructions to provide that Government should take significant or positive steps in the circumstances where the adverse criticism of Government employees in public was found to be based on wrong premises.

As the Ministry of Finance, etc., are aware, instructions regarding action to be taken in the event of allegation against Government servants in the Press are contained in Decision (1) above. Attention is particularly invited to para. 3 of this Office Memorandum. It is considered that the provisions contained therein should be invoked where it is found on an enquiry that the allegations in the Press against individual Government servant are based on ignorance, insufficient information or even malice.

[G.I., C.S. (Dept. of Per.), O.M. No. 11013/21/76-Est. (A), dated the 24th February, 1977.]

(3) Time-limit beyond which permission may be assumed to have been granted by the competent authority in the absence of any communication from him.—6 weeks—See Decision (2) under Rule 8.

20. Canvassing of non-official or other outside influence

✓ No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government.

GOVERNMENT OF INDIA'S DECISIONS

(1) Prohibition on bringing any political or outside influence in respect of matters pertaining to service under the Government.—Rule 20 of the CCS (Conduct) Rules, 1964, provides that no Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under Government. Instructions have been issued from time to time bringing to the notice of all Government servants the aforesaid rule provisions. Instances have come to notice where individual Government servants have approached the Ministry of Urban Development (Directorate of Estate) for out of turn allotment of residential accommodation, or for a departure from the allotment rules through Members of Parliament, prominent persons, politicians, etc. Since the allotment of Government accommodation to a Government servant is made only because of his service under the Government, such canvassing for out of turn allotment through M.Ps. and other political persons, etc., constitutes a violation of the provisions of Rule 20 of the CCS (Conduct) Rules, 1964. The Government servants are, therefore, advised to refrain from such practice. They should not bring or attempt to bring any political or other outside influence to further their interests in respect of matters

pertaining to their service under the Government, including allotment of residential accommodation.

2. Ministry of Agriculture, etc., are requested to bring the above instructions to notice of all concerned under their control.

[G.I., Dept. of Per. & Trg., O.M. No. 11013/6/90-Estt. (A), dated the 30th March, 1990.]

(2) Medical officers of the CGHS cautioned that an adverse entry in the CR may result from attempts to canvass non-official influence in service matters in violation of CCS (Conduct) Rules, 1964.—In paragraph 6 of this Ministry's Letter No. F. 32-42/66-CHS, dated the 16th August, 1966 (*not reproduced*), attention of the Medical Officers was specially invited to the provisions of Rules 3, 7, 8 and 9 of the Central Civil Services (Conduct) Rules, 1964, extracts of which were attached as enclosures to that letter. It was made clear in that letter that breaches of these rules were punishable under the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The Government of India are constrained to note in spite of the instructions already issued, a large number of Central Health Service Officers are continuing to bring political pressure in the matter of their transfers and promotions. This is a very disturbing and unhealthy trend which is contrary to the provisions of the Central Civil Services (Conduct) Rules, 1964. Such pressure embarrasses not only the Government but also the persons who are made to exert the pressure; it also creates a lot of administrative difficulties and complications. It is, therefore, necessary to curb this tendency.

Rule 20 may kindly be brought again to the notice of all the Central Health Service Medical Officers. It may also be made clear to them that in the event of a breach of this rule, an appropriate entry will be made in the confidential report of the officer concerned in addition to such disciplinary action as may be taken against him.

[G.I., Min. of Health, Letter No. F. 32-28/67-CHS. I, dated the 22nd May, 1967.]

✓ (3) Representation on service matters by relatives should be discouraged.—Relatives of a Government servant sometimes make representations concerning service matters affecting the Government servant. This is done in some cases in the hope of reviving a representation which the Government servant had himself made and which had been turned down. In some cases, this procedure is resorted to in order to get round the requirements that the Government servant should submit his representation through his official superiors. This practice is obviously undesirable and should be strongly discouraged. It has accordingly been decided that no notice should be taken of a representation on service matters submitted by a relative of a Government servant. The only exceptions may be cases in which because of the death or physical disability, etc., of the Government servant, it is impossible for the Government servant himself to submit a representation.

[G.I., M.H.A., O.M. No. F. 25/21/63-Ests. (A), dated the 19th September, 1963.]

Instructions already exist that the Government servants should not allow representations on service matters concerning them to be made by their relatives.

Of late, however, it has been noticed that representations/petitions are being sent by relatives like the wives, parents, etc., of P & T employees relating to their service matters. This practice is not only in utter disregard of Government orders referred to, but is also an affront to the personal dignity of the officials, when they themselves have full right to represent in regard to their service matters. The official channels available to them for redressal of their grievances should be utilised to the full by the aggrieved officials. If they allow their relatives to step in, they will be running the risk of their grievances remaining unsettled, as under the rules, no attention need be paid to representations made by persons other than the officials concerned. Individual dignity and decency also require that such a practice should be avoided in their own interest.

It is, therefore, reiterated that no employee of P & T Department should resort to such a practice by allowing his relatives to represent on his service matters.

[D.G., P. & T., No. 105/42/77-Disc. II, dated the 2nd July, 1977.]

(4) **Canvassing of non-official and other outside influence in matters arising out of their service.**—Rule 20 of CCS (Conduct) Rules, 1964, lays down that no Government servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. Instructions in this regard have also been issued from time to time in Director-General's circulars. In spite of repeated instructions on the subject it has come to notice that the Government servants resort to bring non-official and other outside influence to further their service interests.

2. Any high dignitary or Member of Parliament normally sponsors the case of an individual Government servant only when he is approached or pressed to do so. If, therefore, any reference is received on behalf of a Government servant from dignitary/Member of Parliament, it would be assumed that it has been taken up only at the instance of the Government servant and action will be taken against him for violation of Rule 20 and instructions issued thereunder.

3. Director-General desires to make it clear that any instances of violation of these rules/orders would be viewed seriously and the employees responsible for such violation would be severely dealt with. The Director-General hopes that the employees will take these instructions in the proper perspective and will not give any occasion for proceeding against them for violation of these instructions.

4. The Director-General would like to reassure all the employees that their representations submitted in the manner prescribed in the departmental rules would receive the fullest and most sympathetic consideration

at all levels and their genuine grievances would be redressed without any loss of time.

[D.G., P. & T., No. 15/23/76-Disc. I, dated the 8th August, 1977.]

21. Restriction regarding marriage

(1) No Government servant shall enter into, or contract, a marriage with a person having a spouse living; and

(2) No Government servant having a spouse living, shall enter into, or contract, a marriage with any person:

Provided that the Central Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (1) or clause (2), if it is satisfied that—

(a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and

(b) there are other grounds for so doing.

(3) A Government servant who has married or marries a person other than of Indian nationality shall forthwith intimate the fact to the Government.

GOVERNMENT OF INDIA'S DECISIONS

(1) **Procedure for dealing with request from Government servants for permission to remarry while first wife is still living.**—Cases under this rule have been referred to the Home Ministry for advice whether the permission sought should be given, without any preliminary enquiry into the facts alleged. Such references have caused unnecessary loss of time as no advice can be given without ascertaining to what extent the facts alleged are correct. It is, therefore, requested that before such cases are referred to the Home Ministry, the Ministry or Department concerned should cause an enquiry to be made on the following lines:—

The first point to be scrutinised when an application for permission is received, is whether such marriage is permissible under the personal law applicable to the applicant. If so, the question arises whether there are sufficient grounds for allowing an exception to Government's general policy. The alleged grounds, given in support of the request should be scrutinised to see whether the allegations are true and well founded. In case the wife also joins the application, it should be ascertained whether she has willingly consented and whether any letter, etc., purporting to proceed from her is genuine and is the outcome of her own free will. For this purpose, higher officers in the department concerned may, if necessary, send for the applicant and his wife and make personal enquiries. Where the first wife's views have not been stated, they should, if possible, be

-17-

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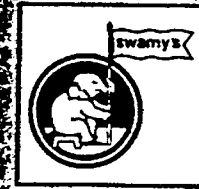
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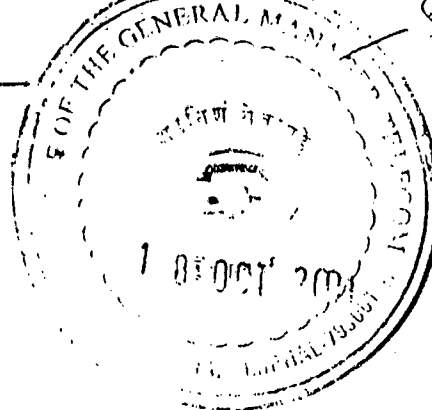
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C-9 SWAMY'S - CONDUCT RULES

muthuswamy
and
bindar

To

The D.E.(P&A),
O/o GATD Manipur,
Imphal - 795 001.



Annexure - R3

Imphal, the 18th October, 2001

Sub : Joining Report :

Sir,

My Medical Leave period expired on 17-10-2001 and another fact is that the transfer order dated 6-9-2001 of the Asstt. G.M., Shillong affecting me has been suspended by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati vide order dated 8-10-2001 passed in Application No. 410 of 2001. My advocate already communicated the order by giving copy to you also. I learnt that 'Struck-off' order had been issued during my leave period but I have not yet received the order till date. I have not yet handed over the charges to any body and no superior officer and any other person/officer has ever asked me to hand over the charges to anybody. No release order has also been issued and as such I may be allowed to join my duty w.e.f. 18-10-2001 forenoon.

As instructed I may be allowed to mention that at first charge should be handed over than release order should be issued, thereafter struck off order should be issued. But in my case there is no handing over of charges and no release order has been issued.

I may further add that since the transfer order has been suspended by the Hon'ble CAT, any other order including the 'Struck-off' order cannot be existed.

Enclosure - Medical fitness
certificate

Yours faithfully,

T.K. Joukumar Singh
(T.K. Joukumar Singh)
JTO/Planning, i/c
SDE/Planning of O/o
GATD/Manipur, Imphal.

transferred from one unit to another, either within the same Circle, or to another Circle unless he is permanent. As it is not possible to accommodate an official borne on one gradation list into another gradation list without injury to the other members in that gradation list such transfers should not ordinarily be allowed except by way of mutual exchange. Transfers by way of mutual exchange, if in themselves inherently unobjectionable, should be allowed, but in order to safeguard the rights of men borne in the gradation lists of both the offices, the official brought in should take the place in the new gradation list according to the date of his entry into the grade or the place vacated by the official with whom he exchanges appointment whichever is the lower.

(2) When an official is transferred at his own request but without arranging for mutual exchange, he will rank junior in the gradation list of the new unit to all the officials of that unit who, on the date on which the transfer is ordered, are either permanent or quasi-permanent, irrespective of length of service, and also to those temporary officials borne on that date on the approved list for appointment in the new unit who have been appointed against regular vacancies.

(3) If the old and the new unit form parts of a wider unit for the purpose of promotion to a higher cadre, the transferee (whether by mutual exchange or otherwise) will retain his original seniority in the gradation list of the wider unit.

Example (i):—A post office clerk transferred from Mehsana Division to Kaira Division in the same Circle will not lose his seniority in the Circle gradation list for promotion to the lower selection grade.

Example (ii):—A telephone operator transferred as an Engineering clerk, even under the same D. E. T. will have his seniority regulated both in the Divisional and the Circle Gradation List of Engineering clerks in accordance with sub-rule (2) as the Circle Gradation Lists of telephone operators and Engineering clerks is not common.

Example (iii):—An R. M. S. Sorter transferred from the A. Division to the P. Division will have his seniority in the gradation list of P. Division as well as of Bihar Circle fixed in accordance with sub-rule (2).

Example (iv):—A post office clerk transferred from Poona Division to the Bombay G.P.O. will have his seniority fixed in gradation list of Bombay G.P.O. as also of Bombay City Units in accordance with sub-rule (2) as the Bombay City Units and the mofussil units have separate gradation lists for promotion to Lower Selection Grade.

Example (v):—A clerk transferred from one zone to another in the Stores Organisation will have his seniority fixed in the gradation list of the new zone in accordance with sub-rule (2).

(4) A permanent official transferred from one unit to another will retain his lien in the old unit until he can be accommodated in the new unit according to his position in the new unit. He will not however have any claim to go back to his old unit even though he holds his lien there. A declaration to the effect that he accepts the seniority on transfer in accordance with this rule, and that he will not have any claim to go back to the old unit, should be obtained before an official is transferred under this rule. Any special privilege to which an official may be entitled by virtue of his position in the gradation list of the unit from which he is transferred will, ordinarily, be forfeited on his transfer to a new gradation list.

(5) The transfer of an official from one arm of service to another within or outside the Circle can be allowed only with the *personal approval of the Head of the Circle or Heads of Circles concerned* and subject to the following conditions:—

- (a) the mode of recruitment to the post to which the official seeks transfer is the same for the post he is holding; and
- (b) whenever additional qualifications are prescribed for appointment to a certain post e.g. minimum height, freedom from colour blindness, etc., for the post of Telephone Operators, the applicant should satisfy those conditions in all respects; whenever any training is required or prescribed for the post, the applicant must undergo that training satisfactorily and the period of such training must be covered by the official by taking leave due and permissible for the period.

39. A Government medical officer is prohibited, under the rules of his Department, from recommending that an official be transferred from, or that he be excused from proceeding to, a particular station on the score of health: nor he is at liberty to offer an opinion as to the nature of the duties or the place of employment of an official unless requested to do so by the official's superior.

40. Every gazetted officer transferred from one station to another must report his movements to the officer under whose immediate orders he may be proceeding to serve. These reports must be made, first, on being relieved; secondly, on starting; and afterwards, once a week while in progress to join.

TRANSFERS OF CHARGE.

41. The rules regarding the transfer of the charge of an office will be found in part II of the Administrative Instructions issued by the Governor-General in council and published as Appendix No. 3 to the *Posts and Telegraphs Compilation of the Fundamental and Supplementary Rules.*



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ESTABLISHMENTS

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Annexure R 5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI ;

GUWAHATI CIVIL ORIGINAL
(CONTEMPT) NO. OF 2001
Ref : In Application No. 410 of 2001

Shri T. Joykumar Singh ... Petitioner

Vrs.

Shri G.N. Chyne and ors ... Respondents

I N D E X

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1.	Application	1 to 4
2.	Affidavit	5 - -
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4.	Annexure A/2 (Intimation letter dt. 10-10-2001)	7 - 8
5.	Annexure A/3 (Joining report dt. 18-10-2001)	9 - -

By :

Advocate

Signature of the applicant

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Advocate

Received on 8/11/2001

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transfer

Signature
8/11/2001

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Dtd. at Imphal, 26.09.01

In pursuance of GMTD. Imphal, Manipur letter No. STB/ES-3/Tenure/XII dated 06.09.2001 Shri T.K. Joykumar Singh, JTO (Plg) working in planning Cell of this office are hereby transferred and posted under Mizoram SSA vice Shri O.J. Singh, JTO, Mizoram.

Shri T.K. Joykumar Singh, JTO. (Plg) looking as SDE (Plg) is hereby struck off from the strength of DE (P&A) w.e.f. 28.09.2001 AN to report for further duties to GMTD, Aizawl, Mizoram. He will make over his complete charge of SDE (Plg) to Shri P. Banerjee, SDE (Admin), O o the GMTD, Imphal, Manipur.

Necessary TADA may be applied if required.
 Charge report may be submitted to all concerned.

D E (P&A)

O o the General Manager Telecom
 District, Imphal.

Copy for information:

1. The CGMT, NE Telecom Circle -I, Shillong.
2. The CGMT, NE Telecom Circle-II, Dimapur.
3. The General Manager Telecom District, Aizawl, Dimapur.
4. The Dy. General Manager Telecom, O o the GMTD, IP.
5. The Chief Account Officer, O o the GMTD, IP.
6. The Account Officer, O o the GMTD, IP.
7. Shri P. Banerjee, SDE (Admin), O o the GMTD, IP to take complete charge of SDE (Plg) Store etc.
8. Shri T.K. Joykumar Singh, JTO, for information and he is requested to make over his complete charge of (Plg) Store to SDE (Admin) in time.

D E (P&A)

O o the General Manager Telecom
 District, Imphal.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

CONTEMPT PETITION NO 59/01
IN OA NO 410 OF 2001.

-24-

Shri T.J.Singh.....Petitioner

Vs.

Shri K.Lal.....Contemner
Respondent No 3

26
Filed by:-
A K Chatterjee
Advocate
17.1.02

I Shri K.Lal, D.E. (P&A) o/o the General Manager Telecom District, BSNL, Manipur do hereby solemnly affirm and say as follows.

1. That I have gone through the Contempt Petition and after going through the petition have understood the contents thereof.
2. That the statement made in the application save and except whatever is specifically admitted in this reply rest on the averments will be deemed to have been denied.
3. That I have the highest reverence and regard for the Hon'ble Tribunal and its order. It is however to be held on consideration of the facts and circumstances of the case that if there had been any lapse on my part, then I hereby tender unqualified apology and sincere regret for the same. I cannot even think of doing any act or omit to do any act which may be construed or treated as an act or omission amounting to contempt of court or disobedience or violation of any order of the Hon'ble Tribunal in utmost respect and regard. The transfer of an official from one arm of service to another within or outside the Circle is allowed only with the personal approval of the Head of Circle and conveyed vide letter No EST-2/JTO/TFR dated 18.9.2001. The N.E.Circle is having a good number of Tenure Stations. It has been decided by the Head of the Circle that the reliever to the Tenure Station should be released in advance so that there is no occasion for delay in relieving the tenure station staff. The stay order granted by the Hon'ble Tribunal is putting the administration in a great dead lock in day to day functioning of the Department as well as the public will suffer at large.
4. That with regard to the statement made in paragraph 1 of the contempt petition I beg to state that the order dated 18.9.2001 is a common order for all the 9 JTOs of Manipur SSA and the order has already been operated and implemented. The petitioner was struck off from the strength of the Sub-Division with effect from 28.9.2001 but the petitioner has suppressed the fact and misled the Hon'ble Tribunal by which interim order dated 8.10.2001 was passed by the Hon'ble Tribunal. The petitioner has admitted in his joining report where he stated that "My Medical leave period expired on 17.10.2001 and another fact is that the Transfer order dated 18.9.2001 of Asstt G.M.Shillong affecting me has been suspended by the Hon'ble Central Administrative Tribunal Guwahati Bench Guwahati vide order dated 8.10.2001" which proves that intentionally the petitioner took leave on Medical ground and suppressed the fact to the Hon'ble Tribunal which proves that he was aware of the fact and misled the Hon'ble Tribunal. In the letter issued by Shri M. Bimol Sharma Advocate, he also admitted that "I am informed that struck off order has/have been issued and request to call off the S.O.Order since the transfer order in respect of the two applicants has/have been suspended by the Hon'ble Tribunal mentioned above". This proves that both the applicant and the Advocate, knowing the fact of the case, suppressed the fact and misled the Hon'ble Tribunal for which the

interim order dated 8.10.01 was passed by the Hon'ble Tribunal. As the struck off order was issued long back, I feel the interim order dated 8.10.2001 has no effect.
(Advocate's letter of the opposite party addressed to DGM/IP dtd.10.10.2001 is annexed here as R1).

5. That with regard to the statement made in paragraph 2 of the petition I beg to state that Shri M.Bimol Sharma Advocate of petitioner cannot instruct the Department to take necessary action as per court's order. He can intimate his clients only. By this practice the petitioner has violated Rule 20 of CCS (Conduct) Rule 1964. The petitioner has brought outside influence concerning the service matter.
(Rule 20 of CCS (Conduct) Rule 1964 is annexed here as R2).

6. That with regard to the statement made in paragraph 3 of the petition I beg to state that on receipt of the OA.No 409/01, parawise comments were submitted to the Hon'ble Tribunal through CGSC. Here I beg to state that Department has highest reverence and regard for the Hon'ble Tribunal and for which one officer is deputed to attend to all cases with relevant documents.

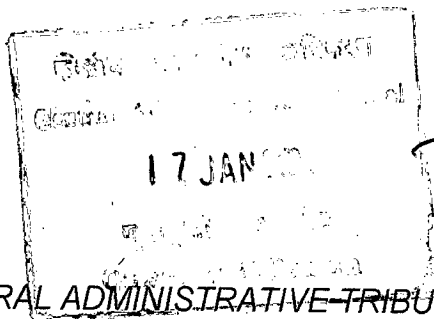
7. That with regard to the statement made in paragraph 4 of the petition I beg to state that the joining report submitted by the petitioner proves that intentionally the petitioner has submitted leave on medical ground and suppressed the facts to the Hon'ble Tribunal. A Government Medical Officer is prohibited, under the rules of his Department from recommending that an official be transferred from or that he be excused from proceeding to, a particular station on the score of health : nor he is at liberty to offer an opinion as to the nature of the duties or the place of employment of an official unless requested to do so by the officials superior.
(Joining Report of the petitioner is annexed here as R3 and Rule 39 related to Transfer is annexed here as R4).

8. That with regard to the statement made in paragraph 5 of the petition I beg to state that the order of Department is bound to be complied. There is no question of allowing the official to join the duty in the old station once he is struck off. In the struck off order it was clearly mentioned that the petitioner will make over his complete charge of SDE (Plg) to Shri P.Banerjee SDE (Admn) o/o the GMTD Imphal. The allegation is wrong.

9. That with regard to the statement made in paragraph 6 of the petition I beg to state that there is no authenticity in the allegations. In connection with the contempt petition I beg to state that before admission of the original application, Shri M.Bimol Sharma the Advocate of the opposite party, has sent one copy of the contempt petition which was received by me on the 8th Nov'2001 which is not at all legal. Notice should otherwise have come from the Hon'ble Tribunal.
(Advocate Notice related to Contempt Petition is annexed here as R5).

10. That with regard to the statement made in paragraph 7 of the petition regarding the ground relief sought for (a) to (d), the petitioner is not entitled to any relief sought for and hence the petition is liable to be dismissed.

11. That I beg to state that I did not violate the order dated 9.10.01 passed by the Hon'ble Tribunal, since struck off order was issued long before the interim order dated 9.10.01.
(Struck off/release order of the petitioner is annexed here as R6).



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

CONTEMPT PETITION NO 59/01
IN OA.NO 410 OF 2001.

Filed by:-
H. K. Choudhary
Advocate
17.1.02

Shri T.J. Singh.....Petitioner

Vs.

Shri N.I. Singh.....Contemner
Respondent No 4

I Shri N.I. Singh, DET (Rural), presently in charge of DE (P&A), o/o the GMTD, Imphal do hereby solemnly affirm and say as follows.

1. That I have gone through the Contempt Petition and after going through the petition have understood the contents thereof.
2. That the statement made in the application save and except whatever is specifically admitted in this reply rest on the averments will be deemed to have been denied.
3. That I have the highest reverence and regard for the Hon'ble Tribunal and its order. It is however to be held on consideration of the facts and circumstances of the case that if there had been any lapse on my part, then I hereby tender unqualified apology and sincere regret for the same. I cannot even think of doing any act or omit to do any act which may be construed or treated as an act or omission amounting to contempt of court or disobedience or violation of any order of the Hon'ble Tribunal in utmost respect and regard. The transfer of an official from one arm of service to another within or outside the Circle is allowed only with the personal approval of the Head of Circle and conveyed. The N.E. Circle is having a good number of Tenure Stations. It has been decided by the Head of the Circle that the reliever to the Tenure Station should be released in advance so that there is no occasion for delay in relieving the tenure station staff. The stay order granted by the Hon'ble Tribunal is putting the administration in a great dead lock in day to day functioning of the Department as well as the public will suffer at large.

Statement made in paras are True to my knowledge based on the official records and belief.

And I sign this affidavit on this 12th day of Jan 2002

[Signature]
(N. I. S. M. H.)
DEPONENT

Solemnly affirmed and declare before me by the deponent being identified by Shri A. K. Chaudhuri, Addl. CGSC on this 12th day of Jan 2002

[Signature]
ADVOCATE