

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

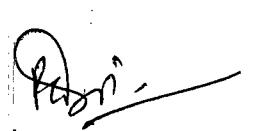
Original No. _____
Misc. Petition No. _____
Contempt Petition No. 11 / 2002 in O.A. 10/2001
Review Application No. _____

Applicant(s) Anil Kumar D 840ns

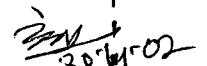
Respondent(s) Kamal Lande & another

Advocate for Applicant(s) M. Chanda, Mrs. N.D. Goswami
G.N. Chakraborty

Advocate for Respondent(s) Mr. A. Deb Roy, Sr.
C.G.S.C.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
This Contempt Petition has been filed by the petitioner praying for initiation of a contempt proceeding against the alleged Contemtioneer for non-compliance of the judgement and order dated 8.10.2001 passed by this Hon'ble Tribunal in O.A. 10/2001.	27.3.02 1.5.02 1m	Heard Mr. M.Chanda, learned counsel for the applicant. Issue notice to show cause as to why the contempt proceeding shall not be initiated. List on 1.5.2002 for further order.
		 Member
		 Vice-Chairman
Laid before the Hon'ble Court for further orders.		List on 14.5.02 to enable the respondents to obtain necessary instructions.
 for Section officer		 Vice-Chairman

① Service report as
still awaited


30.4.02

Notice prepared and sent
to the parties forming the
respondents No 1 & 2
by Regd A.D.
9/4/02

DINo 1117 to 18

Dtd 11/4/02

(2) (A)
14.5.02 List on 30.5.2002 for orders
as prayed by Mr. A. Deb Roy, learned
Sr. C.G.S.C. for the Respondents.

U. Ushay
Member

Vice-Chairman

mb

30.4.2002
Counter reply
has been filed
on behalf of Resp't No. 1.

31/5

2

30.5.02, It has been stated by Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents that the judgment and order passed by this Tribunal is assailed in Writ Petition before the Shilling Bench of the High Court and an interim order is passed suspending the operation of the impugned order vide dated 30.4.2002 in W.P.(C) No.100/2002.

In view of the aforesaid position on the contempt proceeding stands dropped.

Vice-Chairman

mb

Case No. 11

14 MAR 2002

Date : 14.3.02

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 11 2002

In O.A. No.10 of 2001

In the matter of :

Sri Anil Kumar D & 4 Ors. Petitioner

-Versus-

2. Sri K.L. Verma & Another

.... Alleged Contemnors

-AND-

In the matter of :

An Application under Section 17 of the
Administrative Tribunals Act, 1985
praying for initiation of a contempt
proceeding against the alleged
contemnors for non-compliance of the
judgment and order dated 08.10.2001
passed in O.A. No.10 of 2001

-AND-

In the matter of :

1. Sri Anil Kumar D
Son of Shri D.Damodaran
Draftsman, Office of the DIG,
Assam Rifles, Headquarters,
Nagaland, Range South,
C/o 99 APO

Filed by the applicant
through Mr. B.G. Dharma
14/3/02

2. Sri Jose Samuel
S/o Shri P.Y. Samuel Kutty
Draftsman
Office of the Engineer Branch,
Directorate General of Assam
Rifles, Shillong.

3. Sri Prakash Baruah
S/o Shri Binoy Bhusan Barua
Draftsman,
Office of the DIG, Assam Rifles,
Hqr. Mizoram Range
C/o 99 APO

4. Sri Dinesh Kumar Joshi
Son of Shri Jeevan chandra Joshi
Draftsman, Engineer Branch,
A.R.T.C. and School,
Dimapur-797115

5. Smti Kumar Devi
Draftsman, Headquarter,
Manipur Range, C/o 99 APO

.....Petitioners

-Versus-

1. Shri Kamal Pande
Secretary to Government of India
Ministry of Home Affairs,
New Delhi.

2. Sri G.K.Duggal
Lt. General,
Director General of Assam Rifles,
Arbuthnath Road,
Shillong.

.....Alleged contemnors.

The humble petitioner above named -

MOST RESPECTFULLY SHEWETH :

1. That your applicant being highly aggrieved due to non-extension of the benefit of the higher revised pay scale to them approached this Hon'ble Tribunal for a direction to the respondents to grant the higher revised pay scale in terms of the 3rd and 4th Central Pay Commission recommendation read with Office Memorandum dated 13.3.1984 issued by the Government of India, Ministry of Finance and the said O.A. was registered as O.A. No. 10 of 2001.
2. That the Hon'ble Tribunal, after hearing the contestants and having examined the facts and circumstances of the case, was pleased to allow the application and passed the order dated 8.10.2001 in O.A. No. 10/2001 directing the respondents to provide the benefit of the revised scale of pay to the petitioners in the light of the communication dated 24.12.1998 (Annexure-7 to the O.A.) with effect from 1.1.1996 in terms of the Office Memorandum No.

23/14/97-EC-97-EC-IX dated 16.10.1997 with arrear monetary benefits. The alleged contemners were also directed to complete the exercise within a period of four months from the date of receipt of the order of the Hon'ble Tribunal.

Copy of the judgment and order dated 8.10.2001 is annexed as **Annexure-1**.

3. That your petitioners state that they have submitted representations addressed to the Director General of Assam Rifles, alleged contemner no.2 enclosing the copy of the judgment dated 8.10.2001 praying inter alia for implementation of the order of the Hon'ble Tribunal dated 8.10.2001 passed in O.A. No. 10 of 2001 on 18.12.2001 and 21.12.2001 on receipt of a certified copy of the order of the Hon'ble Tribunal dated 8.10.2001 passed in O.A. No. 10 of 2001. respectively. But to no result.

Copy of the representations dated 18.12.2001 and 21.12.2001 are annexed as **Annexure 2 & 3** respectively.

4. That your petitioners came to learn from a reliable source that the alleged contemner no.2 referred the matter to the alleged contemner no.1 for his approval for implementation of the order of the Hon'ble tribunal dated 8.10.2001 but surprisingly the matter is now rested with the alleged contemner no. 1 without taking any

1. further action towards implementation of the order dated 8.10.2001 passed in O.A. No. 10 of 2001. It is further stated that alleged contemner also did not take any further step for implementation of the said order of the Hon'ble Tribunal. As such both the alleged contemners are responsible for wilful violation of the order of the Hon'ble Tribunal dated 8.10.2001 passed in O.A. No. 10 of 2001. Therefore Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemners for deliberate and wilful violation of the order of the Hon'ble Tribunal dated 8.10.2001 passed in O.A. No. 10 of 2001.

2. That the applicant begs to state that in spite of his representation and regular reminders thereto, the alleged contemners did not show the slightest regard to the order of the Hon'ble Tribunal and most deliberately and wilfully did not take any initiative to implement the order dated 8.10.2001 in O.A. No. 10/2001 which amounts to Contempt of Court and therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemners for deliberate and wilful non-fixation of correct date of confirmation and non-compliance of the Tribunal's order.

3. That it is a fit case for the Hon'ble Tribunal for initiation of Contempt proceeding for deliberate and

wilful non-compliance of the order dated 14.5.2001 passed by this Hon'ble Tribunal in O.A. No. 10/2001.

7. That this application is made bonafide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemners for wilful non-compliance of the order dated 08.10.2001 passed in O.A. No.10/2001 and further be pleased to impose punishment upon the alleged contemners in accordance with law and further be pleased to pass any such other order or orders as deem fit and proper by the Hon'ble Tribunal.

And for this act of kindness the applicant as in duty bound shall ever pray.

AFFIDAVIT

I, Sri Anil Kumar D, Son of Shri D.Damodaran, Draftsman, office of the DIG, Assam Rifles, Hqrs, Nagaland, Range South, c/o 99 APO, one of the petitioners in this contempt petition and I have been duly authorised by the other petitioners to swear this affidavit as such solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and competent to sign this affidavit.
2. That the statement made in para 1 to 7 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's judgment and order dated 8.10.2001 passed in O.A. No.10/2001.

And I sign this Affidavit on this the 14th day of March, 2002.

Identified by

D. Anil Kumar
Advocate

Anil Kumar
(ANIL KUMAR D)

Solemnly affirmed and
declared before me by the
deponent - who is identified
by Mrs. N. D. Gourwami,
Hectorcale on 14/3/02

Guwahati
Advocate
Central Administrative
Tribunal

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the alleged contemners/Respondents for wilful and deliberate non-compliance of order of the Hon'ble Tribunal dated 8.10.2001 passed in O.A. No. 10/2001 and further be pleased to impose punishment upon the alleged Contemners/Respondents for wilful and deliberate noncompliance of order dated 8.10.2001 passed in O.A. No. 10/2001.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.10 of 2001

Date or Order: This the 8th Day of October 2001

THE HON'BLE MR.JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

1. Shri Anil Kumar D.
Son of Shri D.Damodaran
Office of the DIG, Draftsman,
Assam Rifles, Hqrs, Nagaland
Range South
C/O.99 APO
2. Sri Jose Samuel
Son of Shri P.Y.Samuel Kutty
Draftsman, O/O.the Engineer Branch
Directorate General of Assam Rifles,
Shillong- 7930011
3. Sri Prakash Barua
Son of Shri Binoy Bhushan Barua
Draftsman
Office of the DIG, Assam Rifles,
Hqr. Mizoram Range
C/O.99 APO -
4. Sri Dinesh Kumar Joshi
Son of Shri Jeevan Chandra Joshi
Draftsman
Engineer Branch, A.R.T.C. and School
Dimapur -797115
Nagaland

Smti Kumari Devi
Draftsman
Headquar, Manipur Range, ...
C/O 99 APO Applicants

By Advocate Mr. M.Chanda, Mr.N.D.Goswami.
Mr.G.N.Chankraborty

-Vs-

1. Union of India
Through the Secretary to the
Government of India, Ministry of Home
Affairs, New Delhi
2. The Secretary to the Government of India
Ministry of Finance
New Delhi
3. The Director General
Assam Rifles,
Arbuthnath Road
Shillong.
4. The Deputy Director General
Assam Rifles, Nagaland Range
South, C/O 99 APO
5. The Deputy Director General
Assam Rifles, Mizoram Range
Hqrs., C/O 99 APO
6. Deputy Director General
Assam Rifles,

contd/-

Attest
S. D.

Hqrs. Manipur Range
C/O 99 APO

Respondents,

By Advocate Mr.B.C.Pathak, Addl.C.G.S.C.

O_R_D_E_R.

CHOWDHURY J(VC):

The issue relates to grant of Higher Revised Pay Scale in terms of the 3rd and 4th Central Pay Commission recommendation read with Office Memorandum dated 13.3.1994 issued by the Government of India, Ministry of Finance in respect of five applicants. These five applicants are working as Draftsman in the Office of the Director General, Assam Rifles and posted in different places in the N.E. Region. The cause of action and grievances are common. Leave was sought for in this application to move this application jointly. Accordingly leave was granted under provision of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

The applicants are serving in the cadre of Draftsman in the scale of Rs. 1200-2040 (revised 4000-6000). The applicants possessed similar educational qualification like those Draftsman Gr.II of CPWD. All the applicants are appointed in between the June 1989 to August 1994 1994 and all the applicants are matriculate having 2 years ITI Diploma in Draftsmanship and also possessed 2/3 years experience at the time of initial recruitment. They are Civilian Central Government Employees and serving under DGAR. The applicants were placed inadvertently in the scale of Rs. 1200- 2040, corresponding to pre-revised scale of Rs. 350 - 560 given by the 3rd Pay Commission instead of Rs. 1400- 2300/- pre-revised scale of Rs. 425 - 700 in terms of O.M. dated 13.3.84. Out of ten Draftsman

five Draftsmen were in drawing of higher revised pay scale of Rs. 1400-2300. The said anomaly was brought to the notice of the concerned Ministry by the DGAR Assam Rifles vide letter No. A/V-A/86-87/O.M./98305 dated

24.12.98(Annexure 7). The paragraph 5 of the said letter, as being relevant is reproduced below :-

"Since the Draftsmen of Assam Rifles are in the same scale of pay as applicable to Draftsmen Grade II in the CPWD and all the Draftsmen were appointed before the issue of Ministry of Finance (Department of Expenditure) O.M. No. F.5(59)-E.III dated 13 March 84 :-

(a) Five Draftsmen mentioned in Appendix B to this letter may please be granted revised scale of pay Rs. 1400 - 2300 (4th CPC) with effect from the date of their appointment on the basis of MOF OM dated 13 Mar 84.

(b) Three Draftsmen mentioned in Appendix A to this letter at Srl. 3.4 and 5 have been granted revised scale of Rs. 1400-2300(4th CPC) on completion of three years of service. This may also be reviewed and revised scale may be granted to them from the date of their appointment on the basis of MOF OM dated 13 Mar. 84.

(c) The Draftsmen of Assam Rifles in the pre-revised scale of Rs. 1400- 2300 (4th CPC) have been granted the revised scale of Rs. 4500-7000(5th CPC) as applicable to all General categories of Central Govt. employees vide part of First Schedule of CCS (RP) Rules 1997. The Govt. of India vide serial x(a) of part B of First Schedule of CCS(RP) Rules 1997 has sanctioned revised scale of Rs. 5000-8000 to the Draftsman Grade II who were in the pay scale of Rs. 1400-2300(4th CPC). However, in absence of any specific sanction of the Ministry, this Department could not allow the Draftsman who were in the pre-revised pay scale of Rs. 1400-2300, the justified scale of Rs. 5000-8000/- (5th CPC) as per serial X(a) of Part B of First Schedule of CCS(RP) Rule 1997. It is also stated that the upgraded/revised scale of Rs.5000-8000/- has already been made applicable to the Draftsman of Grade II of CPWD with effect from 01.01.96 vide Govt. of India, Directorate General of Works CPWD O.M No.23/14/97-EC-IX dated

15 Oct 97(Copy enclosed). The Draftsman of Assam Rifles may therefore, be granted the revised scale of Rs. 5000-8000/- (5th CPC) corresponding to the scale of Rs. 1400-2300(4th CPC) as per serial X(a) of Part B of First Schedule of CCS(R) Rules 1997 with effect from 01.1.1996 in place of Rs.4500-7000(5th CPC)."



The applicant moved the authority by their representation demanding the justice. Failing to get the appropriate remedy the applicant approach this Tribunal by way of this O.A. The respondents submitted the written statement and did not dispute the claim of the applicant. In the written statement the respondents also stated that a comprehensive proposal was tendered before the concerned Ministry and the said recommendation is still under consideration in Ministerial level and the matter is lying with the Ministry. In the written statement the respondents also

admitted the claim of the applicant and higher revised scale
as granted to the similarly situated Draftsman of CPWD.

We have heard Mr.M.Chanda learned counsel appearing on behalf of the applicant and Mr.B.C.Pathak, Addl.C.G.S.C. before the respondents. In view of the admitted position we do not find any lawful justification in not granting the benefit of the revised pay scale indicated in the office Memorandum dated 13.3.1998. Accordingly, the respondents are directed to provide the benefit of the revised scale of pay to the five applicants as indicated in the communication dated 24.12.98(Annexure 7) with effect from 1.1.1996 in terms of office Memorandum No.23/14/97-EC-IX dated 16.10.1997, with arrear monetary benefits. The respondents are directed to complete the exercise within a period of four months from the date of receipt of this order.

Application is allowed. There shall however, be no order as to costs.

-Certified-to-be true Copy

प्रसाधित अंतिमिति

W300
1/3/02

Sd/ VICE CHAIRMAN

Sd/MEMBER (A)

1, M

Section Officer (S)
असम राज्यकारी (स्टेटिक अम्बा)
Section Administrative Officer
कल्पना राज्यकारी अधिकारी
अपराध विभाग, Gwahatी
प्रभाग अधिकारी, अपराध

From : Jose Samuel
 Draughtsman
 Engineer Branch
 Directorate General Assam Rifles
 Shillong - 11

To : The Directorate General Assam Rifles
 (A/Legal Branch)
 Shillong - 11
 (Through proper channel)

Sub : **IMPLEMENTATION OF NEW PAY SCALE : DRAUGHTSMAN (CIVIL)**

Respected Sir,

With due respect and humble submission I would like to state the following few lines for your kind consideration and valuable orders please.

That Sir, I was one among the five Draughtsman who were moved to the Honorable CAT, Guwahati for implementation of new pay scale as applicable to all other Central Govt Employees. The Honorable CAT has given the verdict in favour of us in the light of your letter No.A/V-A/86-87/M/98305 dated 24 Dec 98 addressed to MHA.

It is also reflected here that as per court order vide No.OA 10/2001 dated 08 Oct 2001 (Photo copy of the order attached for your ready reference please), the new pay scale is required to be implement within a period of four months from the date of receipt of this order by the respondents.

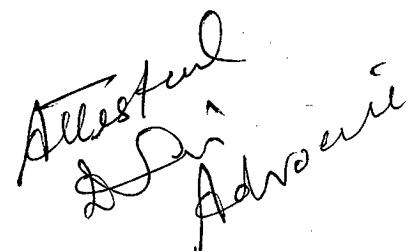
I Therefore request your good offices to take necessary action for implementation of new pay scale at the earliest for which the act of your benevolence, I shall remain ever grateful to you.

Yours faithfully,



(Jose Samuel)
 Draughtsman

Dated : 21 Dec 2001



From : Anil Kumar D
Draughtsman
HQ Nagaland Range (South)
Assam Rifles
C/O 99 APO

To : The Director General Assam Rifles
Directorate General Assam Rifles
Shillong - 793011

(Through proper channel)

Subject : IMPLEMENTATION OF CENTRAL ADMINISTRATIVE TRIBUNAL
JUDGEMENT

Sir,

With due respect, I have the honour to state that, I would like to draw your kind attention on the judgement given by the Central Administrative Tribunal, Guwahati Bench on 08 October 2001 (Copy attached) and request you to kindly look into the matter and issue necessary order to implement the judgement at an early date please.

For this act of your kindness I shall ever remain grateful to you sir.

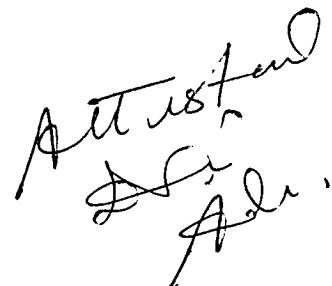
Thanking you.

Yours faithfully,



(Anil Kumar D)
Draughtsman

Encl : As above
Dated : 15 Dec 2001



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Contempt Petition No. 11/2002

IN

O.A.No. 10 of 2001

(Under Contempt of Courts Act 1971).

In the matter of

Shri Anil Kumar D & Others

Applicant

Versus

Shri Kamal Pande, Secretary
Government of India
Ministry of Home Affairs & Another

Respondents/ Opposite Party

Short Counter Reply on behalf of Respondent No. 1

I, Kamal Pande son of late Dr. Purushottam Pande, aged about 58 years, working as Secretary, Ministry of Home Affairs, Government of India, New Delhi do hereby solemnly affirm and state as under :-

2. That I have read the contempt petition and the affidavit filed by the applicants above named and understood the contents thereof. I hereby deny the contentions made therein, unless the same are expressly and specifically admitted herein.

3 That save and except those which are matters of record and specifically admitted in the counter reply, all the statements, averments and submissions made by the applicants in the contempt petition are specifically contested and denied.

4. That this respondent has the highest regard for the Hon'ble Tribunal and is in duty bound to comply with its directions as per law, sincerely and faithfully.

5. That I hereby file a short reply opposing the admission of the contempt petition at this stage and reserve my right to file a detailed reply in case it so becomes necessary.

Kamal Pandey
(KAMAL PANDE)
Home Secretary
Government of India
New Delhi.

6. That the Hon'ble Tribunal vide its order dated 08.10.2001 in the said O.A directed as under :-

"Accordingly, the respondents are directed to provide the benefit of the revised scale of pay to the five applicants as indicated in the communication dated 24.12.98 (Annexure 7) with effect from 01.1.1996 in terms of office memorandum No. 23/14/97-EC-IX dated 16.10.1997 with arrear monetary benefits. The respondents are directed to complete the exercise within a period of four months from the date of receipt of this order."

7. That the judgement of the Hon'ble Tribunal was received by this respondent on 07.01.2002. Therefore the 4 months period given for complying with the Hon'ble Tribunal's direction shall expire on 06.05.2002. Hence the contempt petition filed by the applicant is premature and is liable to be dismissed on this ground alone.

8. That the answering respondent has filed a writ petition alongwith a stay petition in the Hon'ble High Court of Guwahati against the order dated 08.10.2001 passed by this Hon'ble Tribunal. The petition is slated to come up for hearing on 29.04.2002.

9. That in view of the position mentioned above, it is prayed that the Hon'ble Tribunal may kindly be pleased to extend the time for complying with its directions for a further period of three months wef 06.05.2002. It is also most respectfully prayed that the notice of contempt may kindly be discharged by your Lordships:



VERIFICATION

Verified at New Delhi on this day of 2002 that the contents of above affidavits are true and correct.

Kamal Pandey
(KAMAL PANDE)
DEPONENT
(KAMAL PANDE)
Home Secretary
Government of India
New Delhi.



ATTESTED

NOTARY PUBLIC
NEW DELHI (INDIA)

27 APR 2002

Kamal Pandey
(KAMAL PANDE)
DEPONENT
(KAMAL PANDE)
Home Secretary
Government of India
New Delhi.

Regn. No. 784

B. S. RANDHAWA
Advocate & Notary
Old Court, Parliament Street,
NEW DELHI.