

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

ORDER SHEET

Original No. /
Misc. Petition No. /
Contempt Petition No. 26/2002 m.o.A 28/2001
Review Application No. /

Applicant(s) Pritu Bhunian Roy

Respondent(s) G. S. Grover

Advocate for Applicant(s) Mr. P. Roy, Mr. B.K. Talukdar

Advocate for Respondent(s) Mr. A. Deb Roy, Sr. C.A.
Mr. B.C. Pathak, Contemnor No. 1,

Notes of the Registry | Date | ORDER OF THE TRIBUNAL

This Contempt petition has been filed by the petitioner, for wilful violation of this Hon'ble Comptn dated 24.8.2001 passed in O.A. 28/2001.

Laid before the Hon'ble Comptn for further orders.

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
Hon'ble Mr. K.K. Sharma, Member (A).
Heard Mr. P. Roy, for the petitioner.
Issue, notice on the alleged contemners as to why contempt proceeding shall not be initiated against them. Notice returnable on 10.7.2002.
List on 10.7.2002 for further orders.

K. K. Sharma
Member

Vice-Chairman

By Section 87(2)(a)

trd

Notices prepared and
Sent to D. Section
for issuing of the
Same to the Respondents,
Thowth Road, post with
A.P. Viz. D.No-1767&1770
Dated 18/6/02
18/6/02

Mr. B.C. Pathak, learned Addl. C.G.S.C. has stated that he has entered appearance on behalf of the respondent No.1, Shri G.S. Grover and prayed for time to file reply. Prayer allowed. List on 1.8.02 to

① Service report were
still awaited.

10.7.2002

enable the respondent No.1 to
file his reply.

By
9.7.02

I C Usha
Member

Vice-Chairman
nkm

No reply has been
filed.

1.8.02

Mr. B.C. Pathak, learned Addl.
C.G.S.C. has stated that he has been
instructed to appear on behalf of res-
pondents No.1, 2, 3 & 4. The respondents
No.1 are ordered to file reply. No reply
so far filed by the respondents.
List on 29.8.02 for orders.

By
31.7.02

I C Usha
Member

Vice-Chairman

lm

By
28.8.02

No reply so far filed by the
Respondents. The Respondents are allowed
further four weeks time to file reply, if
any. List on 30.9.2002 for orders.

I C Usha
Member

Vice-Chairman

mb

30.9.02

No reply so far filed by the respond-
ents. However, on the prayer of Mr. B.C.
Pathak, learned Addl. C.G.S.C. for the
respondents further ten days time is granted
as a last chance. List again on 10.10.2002
for further orders.

No reply has been
filed.

By
9.10.02

I C Usha
Member

Vice-Chairman

mb

By
10.10.02

10.10.02 Mr. B.C.Pathak, learned Addl. C.G.S.C. appearing for the applicant respondents stated that he is waiting for further instructions in view of the subsequent event. Accordingly, list the matter for further orders on 26.11.2002.

No. reply has been filed.

34
26.11.02

K L Shar

Member

Vice-Chairman

mb

26.11.02 Heard Mrs. R.Dutta, learned counsel for the applicant and also Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents. Put up the matter on 20.12.2002 to enable Mr. B.C.Pathak, learned Addl. C.G.S.C. to obtain necessary instructions on the matter.

No. reply has been filed.

34
13.12.02

Vice-Chairman

mb

20.12.02 Heard Mrs. R.Dutta, learned counsel for the applicant and also Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents.

Mrs. R.Dutta, learned counsel for the applicant submitted that the respondents moved the High Court against the judgment and order dated 24.8.2001 passed in O.A. No. 28/2001 and High Court by order dated 3.12.2002 dismissed the Writ Petition. Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents sought for some time to obtain necessary instructions on the matter.

List on 20.1.2003 for further orders.

K L Shar

Member

Vice-Chairman

mb

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

The Hon'ble Mr. S.K. Hajra, Administrative Member.

Put up again on 11.2.2003 to enable the respondents to obtain necessary instructions on the matter,



Member



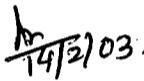
Vice-Chairman

mb

11.2.2003 The respondents are yet to file reply though last chance was granted. The respondent No.1 is directed to appear in person on 17.3.2003 to submit reply.

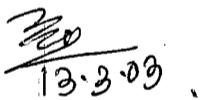
Put up the matter again on 17.3.2003 for personal appearance and further orders.

A copy of the order may be furnished to Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

Order dtd 11/2/03
Communicated to respondent
No.1 and Sri B.C. Pathak.
Addl. C.G.S.C.

11/2/03.

Respondent No 1.
vide DR No. 219 dtd. 14/2/03

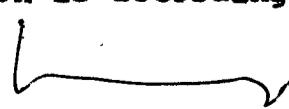
No. reply has been
billed.


13.3.03

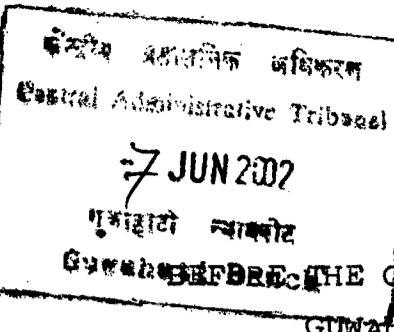
mb

17.3.2003 Heard Mrs. R. Dutta, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents. Mrs. Dutta, learned counsel for the applicant stated that the judgment and order dated 24.8.2001 passed in O.A. No. 28/2001 has been duly complied with. Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents placed before the Bench the order dated 12.3.03 conferring the temporary status to the applicant as well as the charge report of the applicant. The order dated 12.3.03 is placed on record.

The Contempt Petition is accordingly dropped.


Vice-Chairman

mb



THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

CONT. PETITION(C) NO.

26

/2002.

Sri Pritu Bhushan Roy.

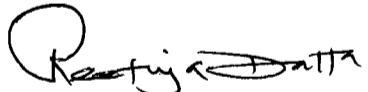
-Vs-

Sri G. S. Grover & Ors.

I N D E X

<u>SL. NO.</u>	<u>PARTICULARS</u>	<u>PAGE NOS</u>
1.	Petition.	- 1-7
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Filed by :


(ADVOCATE)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

File by

Sri Pritu Bhushan Roy

6
- petitioner

Through : Rest jagat
Dwarkanath

In the matter of :-

An application U/S 12 of the Constitution
contempt of Courts Act, 1971 read with
section 17 of the Administrative Tribunal
Act, 1985.

- And -

In the matter of :-

Wilfull violation of this Hon'ble
Tribunal's order dtd 24.8.2001 passed
in O.A. No.28 of 2001.

- And -

In the matter of :-

Sri Pritu Bhushan Roy,
S/o Sri Purna Chandra Roy,
C/o Sri Prasanna Chowdhury,
Village-Girishganj,
District-Karimganj, Assam.

..... Applicant.

- Versus -

Contd .../-

Sri Pritu Bhushan Roy

2.

1. Sri G.S.Grover,

Chief General Manager (Telecom),

Assam Telecom Circle, Ulubari,

Guwahati-7.

2. Sri Srihari Ray,

General Manager, Telecom, Silchar

S.S.A, Silchar, Assam,

P.O. Silchar-788001.

3. Sri Tarachand Singh,

Deputy General Manager, ~~Divisional Manager~~

Department of Telecommunication,

Silchar, Assam, P.O.Silchar-788001.

4. Sri R. Paul,

Divisional Engineer (P & A),

Silchar, P.O.Silchar-788001.

The humble application of the above
named applicant ;

MOST RESPECTFULLY SHEWETH :

1. That the applicant was a Casual labourer engaged in the Department of Telecommunication on 1.1.88 and was working as such till he was granted temporary status on 9.12.97 and thereafter he was working as Temporary Status Mazdoor under the respondents at Ketamoni Telephone Exchange under Patherkandi Sub-Division, Dist-Karimganj, Assam.

Contd..../-

Sri Prilu Bhuson Roy

3.

2. That pursuant to the Supreme Court's Judgement dtd 17.4.90 passed in W.P.(C) No.1280 of 1989 and in other Writ Petitions, the Govt. of India, Ministry of Communication has prepared a scheme under the name and style "Casual Labourer (grant of temporary status and regularisation) scheme "1989 giving its effects on and from 1.10.89 and the same was communicated vide letter No.269-10/89-STN dated 7.11.89 directing for immediate implementation.

3. That as per the said scheme certain benefits have been granted to the Casual Workers such as conferment of temporary status, wages and daily rate with reference to the minimum pay scale for regular Gr.D officials including DA and HRA etc. and for regularisation and absorption as regular Grade-D Cadre.

4. That the respondents after issuance of the aforesaid letter dated 7.11.89 communicating the scheme has also issued further clarification from time to time of which mention may be made of letter No.269-4/93-STN-II dated 17.12.93 by which it was stipulated that the benefits of the scheme should be confined to the Casual Labourers who were engaged during the period from 31.3.85 to 22.6.88.

Contd / -

Sri Pratap Bhushan Roy

4.

5. That as stated above the applicant fulfills the eligibility criteria laid down in the aforesaid scheme since he was engaged on 1.1.88 and was continuing and so the Sub-Divisional Engineer, Telecom Deptt. of Telecom, Patharkandi recommended the name of the applicant along with others for grant of temporary status and submitted the particulars of the applicant along with the other relevant service records including total No. of working days etc.

6. That, after the aforesaid recommendation and the names of the applicant and others were forwarded to the D.P.C. for consideration of their cases for granting temporary status as per the scheme and the D.P.C. found them eligible for granting temporary status. To that effect the respondents issued order on 9.12.97 and 22.12.97 whereby temporary status was conferred upon the applicant alongwith others.

7. That, after granting temporary status by aforesaid order dtd 9.12.97 and 22.12.97 the applicant was posted at Ketemoni Telephone Exchange where he joined on 22.12.97 which was approved by T.D.M., Silchar and was communicated to the applicant on 29.1.98.

Contd .../-

Sri Priti Bhushan Roy

8. That after the aforesaid orders the applicant had been working sincerely and honestly at his place of posting and was getting his pay and allowances. He was also with a bonafide belief and expectation that his service would be regularised in due course but instead of regularising the service of the applicant, the respondent No.3 all of a sudden have issued an order on 27.6.98 communicated by order dtd 29.6.98 by which the earlier order of conferring temporary status was cancelled. By this order the respondents have terminated the service of the applicant w.e.f. 29.6.98.

9. That the applicant states that the aforesaid order dtd 27.6.98 ~~has been passed~~ and 29.6.98 have been passed illegally, without giving any opportunity of hearing to the applicant and without any prior notice to the applicant and hence against the said illegal order the applicant through its union filed an appeal before this ~~xx~~ Hon'ble Tribunal. The Hon'ble Tribunal by its judgement and order dtd 31.8.99 passed in O.A. 141/98 directed the respondents to consider and re-examine the case of each applicants in consultation of the records of each case and to pass reasoned order.

10. That thereafter the respondent No.2 informed the applicant by its letter No.E-20/TSM/Regularisation/SC/04, dtd 26.9.2000 that the Scrutinying Committee on the basis of its findings did not recommend his case

contd . . . / -

Sri Pratul Bhawan Roy

6.

for conferment of temporary status Mazdoor and as such his prayer for granting temporary status Mazdoor cannot be conceded.

11. That against the said order dtd 26.9.2000 the applicant filed a fresh appeal before this Tribunal and this Hon'ble Tribunal by its Judgment and order dtd 24.8.2001 passed the O.A. 28 of 2001 set aside the findings of the Scrutinizing Committee as well the order dtd 26.9.2000 passed by the respondent No.2 and directed the respondents to consider the case of the applicant in the light of the observation made in this judgment and order within three months from receipt of this order.

12. That thereafter your humble petitioner obtained certified copy of the order and submitted the same to the respondents on 10.9.2001 and the official copy which was despatched on 25-9-2001 was also received by the respondents by this time but even after receipt of the said judgment and order the respondents did not take any action to consider the case of the applicant by passing necessary order thereof in gross wilfull violation of this Hon'ble Tribunal's order.

Contd .../-

Sri Prakash Bahuson Roy

13. That the action of the respondents are wilfull violation of this Hon'ble Tribunal's order and as such they are liable to be punished for contempt of this Tribunal.

It is, therefore, most respectfully prayed that your Lordship would be graciously pleased to issue a rule calling upon the respondents to appear personally before this Tribunal and to show cause as to why they should not be punished for contempt of this Tribunal for wilfully violating of this Tribunal's order and/or to pass any other or further order or orders as to your Lordship deem fit and proper.

And for this act of kindness your Lordships humble applicant shall remain ever pray.

Verification . . . / -

Sri Prilee Bhulon Roy

VERIFICATION

I, Sri Pritu Bhushan Roy, S/o Sri Purna Chandra Roy, C/o Sri Prasanna Chowdhury of village- Girishganj, P.O. Girishganj, Dist.-Karimganj, Assam, aged about 33 years, by caste-Hindu, by profession- Service, do hereby solemnly affirm and verify that the statements made in paragraphs 1,3,5,6,7,8,9,10,11,12 and 13 of the ~~particulars~~ application are true to my knowledge and those made in the paragraphs 2,4,6 of the application are matters of records which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this 4th day of June, 2002 at Guwahati.

Sri Pritu Bhushan Roy

APPLICANT

14

DRAFT CHARGE

Whereas the contemner namely Sri G.S. Grever, chief General Manager, Telecom, Assam Circle, Ulubari Guwahati, Shri Srihari Ray, General Manager, Telecom, Silchar, SSA Silchar, Shri Tarachand Singh, Deputy General Manager, District Telecom, Silchar and Shri R. Paul, Divisional Engineer (P&A) Silchar have willfully and deliberately violated the Judgement and Order dated 24.8.2001 passed in O.A. 28/2001 and hence they are liable to be punished Under contempt of Courts Act.

(Mrs. R. Dutta)

Advocate.

- 4 -

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 28 of 2001.

Date of Order : This is the 24th Day of August, 2001.

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

Sri Priti Bhushan Roy
S/o Sri Purna Chandra Roy
C/o Sri Prasanna Chowdhury
Village:- Girishganj
District:- Karimganj
Assam.

..... Applicant.

By Mr.P.Roy & Mr.B.K.Talukdar

- Vs -

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
New Delhi.
2. The Chief General Manager (Telecom)
Assam Telecom Circle, Ulubari
Guwahati-7.
3. Member, Scrutinizing Committee
Divisional Engineer (P&A)
D/O The G.M.Telcom, Silchar
Assam.
4. The General Manager, Telecom
Silchar S.S.A
Silchar, Assam.
5. The District Manager
Department of Telecommunication
Silchar, Assam.
6. The Sub-Divisional Engineer (Group)
Telecom, Patharkandi, Assam.

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

ORDER

CHOWDHURY J. (V.C.) :

This is the second round of litigation. The applicant earlier also moved this Tribunal by way of O.A. 141 of 1998 through its Association, namely, All India Telecom Employees Union praying for conferment of granting the benefit of temporary status as per the Scheme of 1989. The Tribunal took up the said case alongwith like cases and disposed all the cases by a common judgment and order on 31.8.1999 directing the respondents to scrutinise and examine each case individually in consultation with the records and

Contd.. 2

Sri Priti Bhushan Roy

pass a reasoned order thereafter in the event of fitting the representations individually within the period prescribed. The applicant accordingly submitted a representation in writing and the respondents vide letter dated 26.4.2000 advised the applicant to appear before the Scrutinizing Committee on 3.5.2000. The applicant appeared before the said Committee and submitted all his documents. The respondent authority by its order dated 26.9.2000 informed the applicant that the Committee did not recommend his name for granting of the temporary status on the ground that he did not complete 240 days in any Calender year preceding 1.8.98 and that he was not in engagement as on 1.8.98. Hence this application assailing the legitimacy of the order of the respondents.

2. The applicant, in this application, claimed that he was engaged as a Casual Labourer in the Telecommunication Department on 1.1.98 and worked as stockkeeper in the department till the temporary status was granted to him on 9.12.97. The concerned DPC on consideration of the case alongwith others granted the temporary status vide order dated 9.12.97 and 22.12.97 and thereafter he was posted at Kotamone Telephone Exchange, where he joined on 22.12.97. While working as such the order of granting temporary status was cancelled by the Telecom District Manager, Silchar vide his order dated 27.6.98. Being aggrieved with the said order, the applicant, as mentioned above approached this Tribunal by way of filing an O.A. which was numbered as 141/98. The said application was admitted on 2.7.98 and the respondents were directed not to disengage the applicant and others and to allow him to continue in his service. As eluded, the case alongwith the like cases were disposed by the Tribunal by a common order dated 31.8.1999 directing the respondents to scrutinise and examine the case of each applicant.

Contd..3

Sri Pradeep Bhulon Roy

3. The respondents entered appearance and submitted its written statement contesting the claim of the applicant. By the impugned order dated 26.9.2000 the respondents declined to accede to his representation in view of the recommendation of the Committee. Admittedly, the applicant alongwith eight others by order dated 22.12.97 were granted temporary status of Mazdoor provisionally on the approval of the TDM, Silchar. The said order preceded by an order dated 9.12.97 approving the action of the SDE (Group), Telecom in granting temporary status to those nine persons including the applicant. The relevant part of the communication is reproduced below.

*NO.E-20/Grp-D/Rectt/98. Dated at Silchar,
09.12.97

To

The S.D.E.(Group) Telecom,
Patharkandi.

Sub:-

Casual labours (Grant of temporary status and regularization scheme) 1989 engaged after 30.3.85 upto 22.6.88).

In pursuance of the BOT New Delhi letter No.269-4/93-STN-II dated 17.12.93 and CGMT/Guwhati letter No.Rectt-3/10/Part-II dated 4.10.94, the following nine Casual Mazdoors in your Sub-Division are approved for granting of temporary status on the basis of particulars furnished by you vide your letter No.E-27/95-96/ dt.26.10.95 and No.E-27/95-96/Pt.II dt.8.11.95.

You are directed to take further action after verification of their eligibility once again on the points mentioned below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII standard.
- (3) No of days worked yearwise.

After conferring the provisional approval for granting of temporary status u.s.f. 9.12.97 to the Casual Mazdoors mentioned below, Intimation is to be given to TDM/Silchar for their place of posting which will be decided by TDM/Silchar."

Contd.. 4

Sri Prithi Bhuson Roy

In the list of approved Casual Mazdoors of the said communication the name of the applicant appeared at Sl No.9. In pursuance to the said order and more particularly, in view of the Silchar letter dated 16.1.98 the applicant alongwith others were posted at Kotamoni, wherein he joined on 22.12.97. By order dated 29.6.98 the provisional temporary status conferred on the applicant vide TDM, Silchar letter dated 9.12.97 had been cancelled by TDM, Silchar vide his letter dated 27.6.98 holding the applicant was not qualified for granting temporary status as per his previous engagement record. The said order dated 29.6.98 dis-engaging the applicant as Casual Labourer, issued by the SDE (Group) Telecom Patharkundi was based on the direction given by the Telecom District Manager vide memo dated 27.6.98. The full context of the said memo is also reproduced below :-

"Ref: Letter No E-20/Grp-D/Rectt/97 dated at Silchar, 9-12-97.

As per above mentioned letters provisional TSM status was conferred to the following Casual mazdoors. Later on posting order was given to them vide letter No. E-20/Grp-D/Rectt/109 dtd at Silchar, 16.1.98.

1. Sri Ratneswar Nath-Patharkandi Telephone Exch.
2. Sri Priti Bhushan Roy-Kotamoni Telephone Exch.
3. Sri Sukumar Sinha-Patharkandi Telephone Exch.
4. Sri Debendra Kr. Sinha-Duilevcherra Telephone Exch.
5. Sri Nihar Dey-Bazaricherra Telephone Exch.
6. Sri Sujit Kr. Sarmah-Saraigram Telephone Exch.

As per SDE Vigilance O/O TDM Silchar report vide letter No. AVO/CON/98-99/1 dtd. 25.6.98, all the above casual mazdoors were absent for the last more than 365 days counting from the date 17.12.93. They do not qualify for regularisation as TSM as per their previous engagement record in the deptt.

As per this finding the provisional TSM status which was conferred to them, vide letter No. E-20/Grp-D/Rectt/97 dtd at Silchar, 9-12-97 is hereby canceled, with immediate effect. You are hereby ordered not to engage those persons any more."

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Sri Priti Bhushan Roy

4. The applicant, as mentioned earlier, moved this Tribunal assailing the legitimacy of the order dated 27.6.98 and the Tribunal disposed of the appeal by judgment and order dated 31.8.99 in O.A.141/98 directing the respondents to examine the matter in consultation with the records. The respondents by this impugned order dated 26.9.2000 declined to accede to the request of the applicant.

5. The granting of temporary status emanated from a direction given by the Supreme Court in Writ Petition (C) No.1280 of 1989 alongwith 1246, 1248 of 1986 and 176, 177 and 1248/88 Ram Gopal and Others -vs- Union of India and Others. Prior to the aforesaid order the Supreme Court had an occasion to deal with Casual Labourers in Telegraph Department in Daily Rated Casual Labourers -vs- Union of India & Others. In the said case, the Supreme Court ordered the respondent authority Posts and Telegraph Department to prepare a Scheme for absorbing the Casual Labourers in daily duty who rendered continuous services in the department for more than one year. In the instant case on the own showing of the respondents, the applicant was granted temporary status by order dated 22.12.97, which was subsequently cancelled by order dated 29.6.98. The applicant was, however, allowed to continue as Casual Labourer on the strength of the order of the Tribunal dated 2.7.98 in O.A.141/98. By interim order the Tribunal ordered the respondents not to disengage the applicant and to allow him to continue in his services. The O.A. in question alongwith others was finally disposed on 31.8.99. In the said order also the Tribunal extended the interim order till disposal of the representation. The representation was eventually disposed on 26.9.2000. Therefore, at any rate, the applicant rendered his service as a Casual Labourer on and from December 1997

Contd.. 6

Sree Ravi Bhushan Roy

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to 26.9.2000. The findings of the authority that he was not in engagement on 1.8.98 therefore, cannot be sustained. The services rendered by the applicant at least from December, 1997 till the disposal of the representation could not have been ignored. The applicant was earlier granted temporary status on the basis of his past record, which was cancelled at the instance of the communication sent by the SDE Vigilance O/O TDM Silchar report vide letter dated 25.6.98. The said report was not produced before us. The applicant was granted temporary status by order dated 9.12.97. The said order of granting temporary status was cancelled unilaterally on the basis of the report of the SDE Vigilance as reflected in the communication by the TDM, Silchar letter dated 27.6.98, which visited with civil consequences.

We have heard Mr.P.Roy, learned counsel for the applicant at length and also Mr.A.Deb Roy, learned Sr. C.S.C for the respondents.

The respondents have missed the direction of the Tribunal dated 31.8.99 by refusing to consider the case of the applicant in its full perspective. The action of the Scrutinizing Committee to confine its enquiry upto 1.8.98 also cannot be sustainable. Admittedly, the applicant was engaged as a Casual Labourer on and from 1.1.98 till he was sought to be disengaged by the order dated 29.6.98.

For the forgoing reasons, the order dated 26.9.2000 is set aside and the respondents are directed to consider the case of the applicant in the light of the observation made in this order. The application is accordingly, allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition at any rate within three months from receipt

Contd. ?
Sri Pratik Bhushan Roy

of this order.

There shall, however, be no order as to

Costs.

Sd/ VICE CHAIRMAN



TRUE COPY

প্রতিলিপি

Section Officer (S)
সাম্প্রদায় অধিকারী (স্বাক্ষর কুসূম)
Central Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক অধিকরণ
Guwahati Bench, Guwahati-8
প্রতিলিপি স্বাক্ষরীয়, প্রকাশন-১

17/9/2011

Sri Pratik Bhushan Roy