

FORM NO. 4

(See Rule 42 )

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI.

ORDER SHEET

Original No. \_\_\_\_\_

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. 27/2002 No. A 198/2001

Review Application No. \_\_\_\_\_

Applicant(s) Bhogeswar Hazarika

Respondent(s) G. S. Grover Jons

Advocate for Applicant(s) Mr. S. San Ali, Mr. S. Seal

Advocate for Respondent(s) Mr. B.C. Pathak, Addl. Case for Reply No. 1, 3  
Mr. A. Deb Roy, Sr. Case

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

This Contempt petition 12.6.02

Heard learned counsel for the parties.

Issue notice to show cause as to why the Contempt Proceeding shall not be initiated against the alleged contemnors.

List on 16.7.02 for orders.

Member

Vice-Chairman

Mr. B.C. Pathak, learned Addl. C.G.S. C. appearing on behalf of the Respondent No.1 prays for time to file reply. Prayer is allowed. List on 19.8.2002 for orders. The other respondents may also file reply, if any, in the meantime.

Member

Vice-Chairman

N Section Officer

Dtd 14-6-02

mb

① Service report are still awaited.

30  
15.7.02

No reply has been filed.

WS  
16/8/02

No reply has been filed.

30  
11.9.02

Received copy  
C. Lee  
8/9/02

Order dtd. 12/9/02  
Communicated to the Contingent  
Comm.

30  
26/9

19.8.02

No reply so far filed. List again on 12.9.2002 for appropriate orders.

Member

Vice-Chairman

mb

12.9.02

Heard Mr S.Ali, learned Sr.counsel for the applicant and also Mr B.C. Pathak, learned counsel for the respondents. Mr Pathak has stated that the order passed by the Tribunal in O.A.198/2001 dated 23.11.01 affirmed by the High Court in Writ Petition(C) No.2141/2002 vide judgment and order dated 4.4.02. The respondents has taken steps for implementing the order and to that effect Mr Pathak has drawn our attention to a communication dated 9.9.02 sent by the Asstt.General Manager(Admn.), Assam Circle to the Deputy General Manager, Telecom, Dibrugarh directing the Deputy General Manager to take immediate action for implementing the judgment and order dated 6.1.98 passed in O.A.257/97. A copy of the communication is placed on record.

In the circumstances the Contempt proceeding stands dropped.

Vice-Chairman

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Filed by the  
petitioner  
me. g. sharma  
delivered  
7.6.02

Shri Bhogeswar Hazarika  
Page 13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH  
AT GUWAHATI.

CONTEMPT PETITION NO. 27 /2002.

IN THE MATTER OF :-

A petition under section 12 of the  
Contempt of Courts Act.

-AND-

IN THE MATTER OF :-

Shri Bhogeswar Hazarika,  
S/o G.C. Hazarika,  
Resident of Bordoloi Nagar,  
P.O. & Dist. Tinsukia, Assam.

..... Petitioner.

-VRS-

1. Shri G.S. Grover,  
Chief General Manager,  
Assam Telecom Circle, Ulubari,  
Guwahati-7.
2. Shri R.K. Misra, (gone on transfer)  
General Manager, Telecom District  
Dibrugarh.
3. C.L. Singh, (Cash)  
Sr. Accounts Officer / Dibrugarh  
Office of the General Manager,  
Telecom District, Dibrugarh.

..... Contemners.

The humble petition of the petitioner  
above-named,

Contd.....2

(Sis. Bhageswari H. Sadia)  
(B. N. S.)

MOST RESPECTFULLY SHEWETH:-

1. That your petitioner is working as Senior Telephone Operator in the office of the Divisional Engineer, Maintenance, Tinsukia.

2. That your petitioner resigned from his service on 4.8.86 due to various reasons but the Department was not accepting his resignation and hence he submitted a representation on 12.7.94 for withdrawal of his resignation. The authority did not accept the withdrawal letter nor communicated any information to the petitioner and hence he filed a O.A. No.91/97 before the Hon'ble Tribunal at Guwahati and the Hon'ble Tribunal considering the facts and circumstances of the case was of opinion that the respondents should consider the representation and pass a reasoned order thereafter. The Hon'ble Tribunal also directed the respondents to follow the decision of the Apex Court and also of the Gauhati High Court. The Hon'ble Tribunal further directed that the applicant file a representation before the authority and accordingly the applicant filed a representation before the authority and on receipt of the representation the petitioner was allowed to join in his service at Chapakhowa Sadia and he joined there on 14.7.97.

3. That after joining in duty by the petitioner and working for about 15 days he was not allowed to continue in his service and the petitioner challenged the order of the authority for discontinuation of his service vide O.A. No.275/97 before the Hon'ble Tribunal and the Hon'ble Tribunal after hearing both the parties passed an order on 6.1.98

directing him to allow to join in service. Further the Hon'ble Tribunal directed the respondents that the petitioner shall be deemed to be in service and he shall be entitled to get all the benefits as if he was in service althrough. However, it was also directed that by the Tribunal that if the respondents find that the acceptance of the withdrawal resignation was not in accordance with law they may take up the matter afresh and pass necessary orders in accordance with law after giving opportunity of hearing to the applicant but the authority did not take up any matter afresh against the petitioner.

4. That in pursuant to the order of the Hon'ble Tribunal dated 6.1.98 in O.A. No.275/97 the Divisional Engineer (Administration), Dibrugarh by order dated 20.9.2000 ordered for giving the pay benefits to the applicant w.e.f. 4.8.86 to 12.8.97. In the said order, the Divisional Engineer (Administration) also ordered for fixation of the applicant's pay as per norms of the department.

5. That in compliance of the order dated 20.9.2000 of the Divisional Engineer(Administration), Dibrugarh the petittiojer was paid only annual increment w.e.f. 4.8.86 to 12.8.97 but the monthly salary was not paid to him and hence the petitioner again approached the Hon'ble Tribunal vide O.A. No.198/2001 against the respondents/contemnners.

6. That the Hon'ble Tribunal after hearing bot the parties in O.A. No.198/2001 directed the respondents/contemnners to pay full salaries and allowances to the appllkant/petitioner admissible to him and other service benefits as per law within 3 months from the date of receipt

(S. Bhogeswar Arzika)  
Bhaskar 5

of the order if salary and allowances have not already been provided to him vide judgment and order dated 23.11.2001.

Chogsware Hengdka  
Binita  
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Annexure-A is the photocopy of the said judgment and order dated 23.11.2001 passed in O.A. No.198/2001 by this Hon'ble Tribunal.

7. That as per direction of this Hon'ble Tribunal the petitioner is not only entitled to get his monthly salaries w.e.f. 5.8.86 to 12.8.97 but he is also entitled to get One Time Bound Promotion after completion of 16 years of service. He is also entitled to get promotion as Bi-Ennial Resturement after completion of 26 years of service. Accordingly, the petitioner has been given promotion vide No.E.316/OTBP/TOA(P)/3 dated 02.04.2002, vide letter No.E/15/Sr.TOA(P)/33 dated 4.4.2002 and vide letter No.E-346/BCR/Pt-I/161 dated 2.4.2002 issued by the Divisional Engineer, Administration Office of the General Manager, Telecom, Dibrugarh.

8. That while granting promotion to the petitioner the Contemners deliberately did not give the pay scale to his promoted post and consequently the petitioner has been suffering from loss of salaries and fixation of pay, This has been done by the Contemners deliberately particularly the Contemner No.3 Shri C.L. Singh, Sr.Accounts Officer(Cash) wilfully and intentionally violated the Hon'ble Tribunal's Order as well as the order of the Hon'ble Gauhati High Court dated 4.4.2002 passed in W.P.(C) No.2141/2002.

Prithvi Choudhary  
Prithvi

9. That the copy of the judgment and order dated 23.11.2001 passed in O.A. No.198/2001 was sent by registered post by the petitioner on 6.12.2001 to the contemnors. In fact, all the contemnors have received the same long back but they implemented the judgment and order of the Hon'ble Tribunal partly ~~and~~ giving promotion only to the petitioner but the contemnors have not fixed the monthly salaries to the petitioner on promoted post till date and thereby they have violated intentionally and deliberately judgment and order dated 23.11.01 passed by this Hon'ble Tribunal and hence they are liable to be punished under the Contempt of Courts Act.

10. That the contemnors deliberately and intentionally disobeyed the order of the Hon'ble Tribunal to give pay scale on the promoted post and to give other service benefits to the petitioner as directed by this Hon'ble Tribunal and thereby they have wilfully and intentionally violated the order of the Hon'ble Tribunal for which they are liable to be punished u/s 12 of the Contemner of Courts Act.

11. That the Contemnors filed W.P.(C) No.2141/2002 against the judgment of the Hon'ble Tribunal dated 23.11.2001 passed in O.A. No.198/2001 before the Hon'ble Gauhati High Court but the Hon'ble High Court after hearing both the parties disposed of the W.P.(C) No.2141/2002 affirming the judgment and order dated 23.11.2001 of this Hon'ble Tribunal vide order dated 4.4.2002.

Annexure-B is the photocopy of the order dated 4.4.2002 passed in W.P.(C) No.2141/2002 by the Hon'ble Gauhati High Court.

12. That the Contemners also deliberately and intentionally disobeyed the order of the Hon'ble High Court passed in W.P.(C) No.2141/2002 dated 4.4.2002. The copy of the Hon'ble High Court was also furnished to the contemners on 7.5.2002.

13. That this petition has been filed bonafide and for the ends of justice.

It is, therefore, respectfully prayed that this Hon'ble Tribunal may be pleased to admit this petition and issue notices to the contemners to show cause as to why they should not be dealt with u/s 12 of the Contempt of Courts Act for deliberate and wilful violation of the judgment and order dated 23.11.2001 passed in O.A. No.198/2001 by this Hon'ble Tribunal as well as the judgment and order dated 4.4.2002 passed by the Hon'ble Gauhati High Court in W.P.(C) No.2141/02 and to take appropriate action against them or to punish them under the provisions of contempt of Courts Act.

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

Affidavit.....

Blageswar Hengra  
Borika



A F F I D A V I T

I, Shri Bhogeswar Hazarika, Son of Late G.C. Hazarika, aged about 49 years, resident of Bordoloi Nagar, P.O. & Dist. Tinsukia, Assam, do hereby solemnly affirm and state as follows:-

1. That I am the petitioner of the accompanying petition and as such I am well conversant with the facts and circumstances of the case.

2. That the statements made in paragraphs 1, 2, 3, 5, 8, 9, 10, 12, of the enclosed petition are true to my knowledge and those made in paragraphs ~~4, 5, 6, 7, 11,~~ being matter of record are true to my information derived therefrom which I believe to be true and therests are my humble submissions made before this Hon'ble Tribunal.

And I sign this affidavit on this the 7th day of June, 2002 at Guwahati.

Bhogeswar Hazarika.  
Deponent.

Solemnly affirmed and declared  
before me by the deponent who  
is known to me on this the 7th  
day of June, 2002 at Guwahati.

Chirag. 6<sup>02</sup>

ADVOCATE

-8-  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.198 of 2001.

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

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

.....Applicant

By Advocate Ms B. Seal.

- versus -

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

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

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



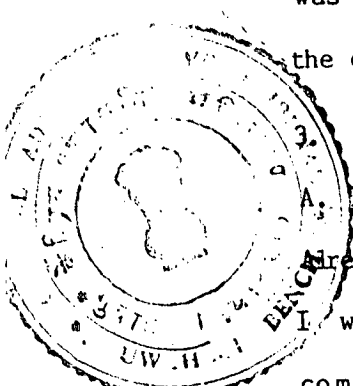
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Annexure-A

Musted  
Sec  
Advocate  
7-6-02

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

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



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

There.....

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

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

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

sd/ VICE CHAIRMAN

u  
... CHAIRMAN

Certified to be true Copy

प्रमाणित प्रतिलिपि

3/12/2011

Section Officer (I)

आयुक्त न्यायाधीश (प्रथम श्रेणी)  
Central Administrative Tribunal

न्यायाधीश (प्रथम श्रेणी)  
Guwahati Bench, Guwahati-8

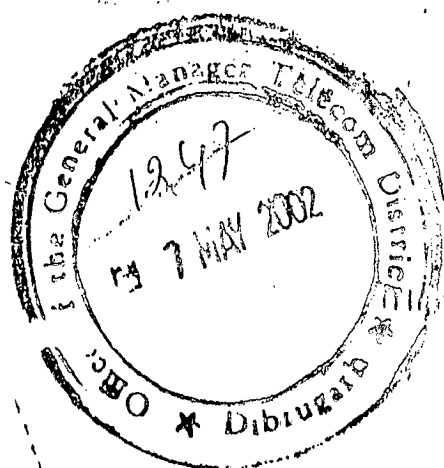
प्रमाणित प्रतिलिपि

3/11/2011

प्रमाणित प्रतिलिपि की प्रतिलिपि प्रमाणित प्रतिलिपि की प्रतिलिपि Date fixed for notifying the requisite number of stamps and folios.	प्रमाणित प्रतिलिपि की प्रतिलिपि प्रमाणित प्रतिलिपि की प्रतिलिपि Date of delivery of the requisite stamps and folios.	प्रमाणित प्रतिलिपि की प्रतिलिपि प्रमाणित प्रतिलिपि की प्रतिलिपि Date on which the copy was ready for delivery.	प्रमाणित प्रतिलिपि की प्रतिलिपि प्रमाणित प्रतिलिपि की प्रतिलिपि Date of making over the copy to the applicant.
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Annexure - B



IN THE GAUHATI HIGH COURT

High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura  
Mizoram & Arunachal Pradesh

CIVIL APPELLATE SIDE

Appellant from

And Re

N.D (C)

No. 2141

of 2002

Bhaskar Sancha Nigam Ltd

Appellant

Respondent

Versus

Bhaskar Sancha Nigam Ltd

Respondent

Appellant Mr. B. Sarma Addl. C. & S. Officer

Respondent

Respondent Mr. B. Sarma Addl. C. & S. Officer

For

Opposite Party Mr. B. Sarma Addl. C. & S. Officer

Attested by  
Dei  
Advocate  
7-6-02

- And -

In the matter of

Bharat Sanchar Nigam Ltd.

Represented by Chief General Manager,

B.S.N.L.,

Assam Circle,

Guwahati.

... Petitioner.

- VS -

Sri Bhogeswar Hazarika.

Resident of Bordoloi Nagar,

Tinsukia.

District - Tinsukie, Assam.

... Respondent.

Set up by Officer or Advocate	S. No.	Date	Office notes, reports, orders or proceedings with signature
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4.4.2002.

PRESENT :

THE HON'BLE THE CHIEF JUSTICE  
THE HON'BLE MR. JUSTICE AMITAVA ROY

Heard Mr. B. Sarma, learned counsel for the petitioner. Ms..B. Seal is present on behalf of the caveator (the respondent herein).

We can do no better than to quote the concluding portion of the impugned judgment and order of the Central Administrative Tribunal, Guwahati Bench, dated 23.11.2001 :-

The issue in this application was pertaining to giving pay and allowances and other service benefits to the applicant as per law. By the judgment and order dated 6.1.1998 in OA No. 275/1997 the Tribunal set aside the order dated 21.8.97 and 12.9.97 and it was held that the applicant would be deemed to be in service and the Tribunal also held that the applicant would be entitled to all the service benefits. There cannot be any justification for not paying him the salary and allowances and to provide him the other service benefits. Even if the subject matter was under review it would not absolve the respondents from its responsibilities from paying the applicant his pay and allowances and other service benefits as he is/was entitled under the law. The applicant has also asserted that despite the order of the Tribunal dated 6.1.1998, the applicant's case for promotion was not considered though he was entitled to be so considered. As per the order of the Tribunal dated 6.1.1998 the applicant was deemed to be in service all throughout and it was held that he would be entitled to get all the benefits. The benefits also included the rights of the applicant to be considered for promotion.

4. In the facts and circumstances of the case the respondents are directed to pay full salary and allowances to the applicant admissible to him and other

4.4.2002 (contd.)

-this/ service benefits as per law within three months from the date of receipt of the order if the salary and allowances and other service benefits have not already been provided to him."

It is not disputed before us that the decision dated 6.1.98 in OA No. 275/97 was not made subject matter of further challenge. We are of the view that the later OA No. 198/2001 which has been decided on 23.11.2001, was in the nature of execution of the judgment and order of the earlier OA No. 275/97, dated 6.1.98.

We do not find any infirmity in the view taken by the Central Administrative Tribunal.

Dismissed.

Sd/- P.S. Morigi

Chief Justice

CERTIFIED TO H. YADU GOPA

Date 24/12/2002

1872

24/12/2002