

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No.:

Misc. Petition No.:

Contempt Petition No.:

Review Application No.:

38/02 M.C.A. 392/2001

Applicant (s) D. N. Baruah

-Vs-

Respondent (s) U.O.T. Joms

Advocate for the Applicant (s) A.C. Bmagohar, N. Bora

Advocate for the Respondent(s) Case B.C. Pathak for Rep-3

92

Notes of the Registry	Date	Order of the Tribunal
This Contempt petition has been filed by the applicant for wilful and deliberate violation of order dated 31.1.02 passed by this Hon'ble Tribunal in C.A. 392/2001	3.9.02	Heard Mr. N. Bora, learned counsel for the applicant. Issue notice to show cause as to why the contempt proceeding shall not be initiated. List on 3.10.2002 for orders.
Laid before the Hon'ble Court for further order.	3.10.02	K. C. Sharma Member Mr. B.C. Pathak, learned counsel entered appearance on behalf of the respondents and prays for time to file reply. List on 13.11.02 for order.
for Section Officer	13.11.	I. C. Usha Member Due to Circuit sitting at Shillong, the Case is adjourned to 21/2/2002. - M.C.A.

(2)

Notice prepared and  
Sent to D. Section for  
issuing of the same  
to the respondents  
through Regd. Post  
with A.D.

File No. 2576/02578  
Dtd. 16-9-02.

17.12.02

List on 12.12.2002 for orders  
as prayed by Mr. B.C.Pathak,  
learned Addl. C.G.S.C. for the respondents.

K.C. Sharma  
Member

Vice-Chairman

BB

10-9-02

12.12.02

Put up the matter on 7.1.2003  
for orders to enable the respondents  
to file its reply.

No. Reply has been  
filed.

BB

29-11-02

mb

K.C. Sharma  
Member

Vice-Chairman

No. Reply has been  
filed.

BB

11-12-02

7.1.03

There is no appearance on behalf  
of the applicant. Learned counsel for the  
respondents has intimated that the Apex  
Court has stayed the operation of the  
decision of this Tribunal. An affidavit  
to this effect has been filed on behalf  
of the respondents. Keeping in view the  
above such facts the rule is discharged  
for the present. The applicant will be at  
liberty to approach the Tribunal in case  
the said is vacated by the Apex Court.

MS Ag

K.C. Sharma  
Member

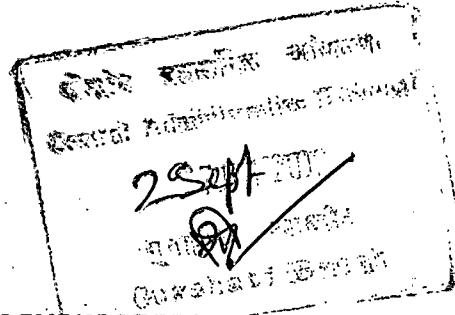
Chairman

pg

17.1.2003

Copy of the order  
has been sent to the  
D/secy for issuing the  
same to the applicant  
as well as to the Addl.  
C.G.S.C.

ET



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI.

Cont. Petition No. 38 /2002

In O.A. No. 392 / 2001.

IN THE MATTER OF: -

Contempt Petition under  
Section 12 of the Contempt of  
Courts Act.

-AND-

IN THE MATTER OF: -

Willful and deliberate  
violation of order dated 31-  
01-2002 passed by the Hon'ble  
Central Administrative Trib-  
unal, Guwahati Bench in O.A.  
No. 392/2001.

-AND-

IN THE MATTER OF: -

Sri Dinna Nath Baishya.  
P.O.- Hengrabari,  
P.S.- Dispur.

Assistant Director (Management  
Information Service), office

Contd.

Dinna Nath Baishya

Filed by the petitioner  
Sri Dinna Nath Baishya  
through Nirjan Baroh -  
Advocate.

gj

of the Chief General Manager,  
 Telecom, Assam Circle,  
 Guwahati, Assam.

... Petitioner.

-Versus-

1. Sri Prithipal Singh, C.M.D., B.S.N.L.  
 Stateman House Barakhamba Road,  
 New Delhi-1.

2. Mr. G.S. Grover,  
 Chief General Manager, Telecom,  
 B.S.N.L, Assam Circle, Ulubari,  
 Guwahati-7.

3. Sri A.K. Sahu,  
 Deputy General Manager  
 (Administration), officer of  
 Chief General Manager, Telecom,  
 Ulubari, Guwahati-7.

... Contemnors.  
 Respondents

The humble petition of the  
 petitioner above named -

MOST RESPECTFULLY SHEWETH:

1. That, your Petitioner is a citizen of India and he is a permanent resident of village Hengrabari, Dispur in the district of Kamrup, Assam.

Contd..

Dinesh Nath Baruah

2. That, your petitioner is an Assistant Director (Managing Information Science) under the office of the Chief General Manager, Telecom, Assam Circle, Ulubari, Guwahati and he has completed 36 years of dedicated and sincere service in his Department.

3. That, your petitioner respectfully states that an order dated 31-08-2001, 111 officers of TES Group 'B', who were posted to B.S.N.L on their adhoc promotion to STS of ITS Group 'A' (DET). In the said 111 promoters list, the name of the applicant was at Sl. No. 28. Thereafter, the applicant has not been posted to the higher grade for the cause of a Departmental proceeding initiated against him on 24-05-2001.

4. That, your petitioner respectfully states that he approached this Hon'ble Tribunal for redressal of their grievances in as much as his services were not promoted to B.S.N.L on their adhoc promotion to STS of ITS Group 'A' (DET), by way of filing a Original Application before the Hon'ble Tribunal, the aforesaid Original Application was finally heard by this Hon'ble Tribunal on 31<sup>st</sup> day of January 2002. The Hon'ble Tribunal while disposing of the aforesaid application by its Judgment and Order dated 31-01-2002 passed in O.A. No.392/2001 interalia stated as under -

.....7. Considering the nature of the charge and other surrounding circumstances, it cannot be said that the promotion of the officer would be against public interest. At any rate the Department concerned even did not indicate anything in its order. In the circumstances we are of the view that since the very promotion is of adhoc nature, the applicant is not to be deprived of his due promotion. the respondents are accordingly directed to give effect to the promotional order by promoting the applicant to the post of STS of ITS Group- 'A' forthwith as an adhoc nature."

A copy of the aforesaid Judgment and Order dated 31-01-2002 is annexed hereto and marked as ANNEXURE - I, 1A

5. That, your petitioner respectfully states that he collected certified copy of the aforesaid Judgment and Order dated 31-01-2002 (vide Annexure-1) and submitted the same to the authorities with his forwarding letter immediately on 05-02-2002 for compliance of the judgment and order dated 31-01-2002 passed by the Hon'ble Tribunal in O.A. No.392/2002. The petitioner further states that the Respondents has been served with a copy of the order dated 31-02-2002 passed by

Hon'ble Tribunal, and the Respondents have already received the same.

Copies of the letter dated 05-02-2002 and the receipt thereof is annexed hereto and marked as ANNEXURE - II & III.

6. That, as such the Chairman, B.S.N.L. East of India Enterprises, New Delhi and in Chief General Manager, Telecom, B.S.N.L (Respondent No.1 & 2)/ contemners have willfully and deliberately violated the specific order dated 31-01-2002. The Respondents in spite of receipt/acknowledge of the order passed on 31-01-2002 by this Hon'ble Tribunal have not implemented the said order and have willfully and deliberately disobeying the order passed by this Hon'ble Tribunal.

7. That, your petitioner respectfully states that on 17-07-2002 an order was issued under the signature of Assistant General Manager (Administration), two Officers from (Group-'B') are ordered for officiating promotion to the cadre of STS of ITS Group-'A' on local arrangement basis for the period of 179 days from the date of joining. Those two Officers were junior to the applicant.

Dinesh Kumar Baloch

A copy of the aforesaid promotion order is annexed hereto and marked as ANNEXURE - IV.

8. That, your petitioner respectfully submits that in that view of the matter, it is a fit case in which this Hon'ble Tribunal may be pleased to draw up contempt proceedings against the Respondents/ Contemners and punished them for willful violation and disobedience of the order passed by this Hon'ble Tribunal. The applicant further state that to uphold the dignity of the Hon'ble Tribunal the Respondents/ Contemners are liable to be punished for contempt of this Hon'ble Tribunal.

9. That, this Hon'ble Tribunal may be pleased to direct the Respondents/ Contemners to appear before this Hon'ble Tribunal personally.

In the premises aforesaid it is therefore, prayed that Your Lordships may be pleased to issue Notice to the Contemners/ Respondents to show cause as to why appropriate punishment under the law should not be imposed upon them for willfully disobeying/ violating the direction given by this Hon'ble

Contd.

Dinner with Beclaya

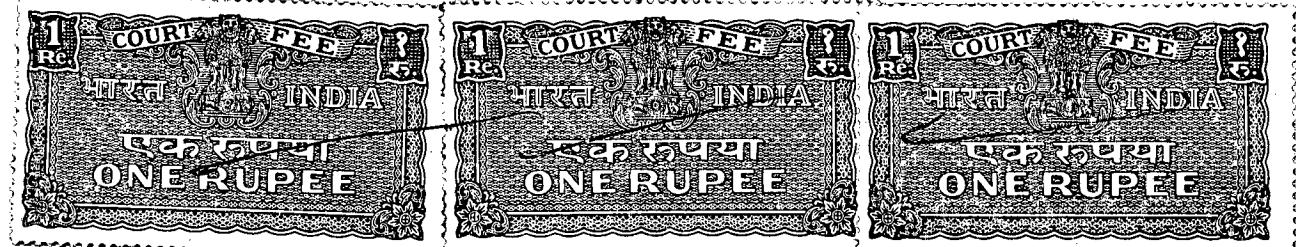
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Tribunal vide order dated 31-01-2002 and after hearing the parties Your Lordships may be pleased to award appropriate punishment upon the Contemners/ Respondents having committed contempt of this Hon'ble Tribunal and may pass such further order/ orders as Your Lordships may deem fit and proper in the facts and circumstances of the case.

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

Avinash Balwani



AFFIDAVIT

I, Sri Dinna Nath Baishya, aged about 49 years, resident of village Hengrabari, Dispur in the district of Kamrup, Assam do hereby solemnly affirm and declare as follows: -

1. That I am the petitioner in the instant contempt petition and I am well acquainted and fully conversant with the facts and circumstances of the case.
2. That the statements made in this affidavit and in the accompanying petition in paragraph 1, 2, 3 & 6 are true to my knowledge and the statements made in paragraphs 4, 5 & 7 are matters of records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I signed this affidavit on this the 29 day of Augt, 2002 at Guwahati.

Identified by:

*(Signature)*  
NIRAN BANERJEE  
Advocates

*Dinna Nath Baishya*

DEPONENT.

Solemnly affirm and declare before me by the deponent who is identified by N. Banerjee, Advocate on 29th August 2002

P. J. Saikia  
Advocate.

Contd.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.392 of 2001

Date of decision: This the 31st day of January 2002

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

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

Shri Dinna Nath Bashya,  
P.O.- Hengrabari, P.S. Dispur,  
Last employed as Assistant Director  
(Management Information Science),  
Office of the Chief General Manager,  
Telecom, Assam Circle,  
Guwahati.

.....Applicant

By Advocates Mr A.C. Buragohain, Mr N. Bora and  
Mr D. Borah.

- versus -

1. The Union of India, represented by  
The Secretary, Telecommunication,  
New Delhi.
2. The Chairman,  
Bharat Sanchar Nigam Ltd.,  
Government of India Enterprises,  
New Delhi.
3. The Chief General Manager, Telecom,  
Bharat Sanchar Nigam Ltd.,  
Assam Telecom Circle,  
Guwahati.
4. The Deputy General Manager (Admn.),  
Office of the Chief General Manager,  
Telecom, Guwahati.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

.....  
O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The matter pertains to posting on promotion to STS of IIS Group 'A' (DET). By order dated 31.8.2001 111 officers of TES Group 'B' who were posted to BSNL on their ad hoc promotion to STS of IIS Group 'A' (DET) were posted in the Circles indicated in the Annexure enclosed. The order indicated that their seniority would be determined with reference to their basic seniority in the substantive grade of TES Group 'B'. In the list, the name of the applicant was also included at

serial No.28. In the said order a condition was prescribed at para 3 which reads as follows:

"3. The officers shall not be promoted to the higher grade by the concerned Circles/Units:

- i. In case of disciplinary/vigilance case is pending against him
- ii. If the officer is under the currency of any penalty; or
- iii. The officer is on deputation to TCH, etc.

Such cases will be decided by this office on receipt of information from the concerned Telecom Circles. Information in this regard may be brought to the notice of this office within 15 days from the date of issue of this order."

In view of the said condition the applicant has not been posted to the higher grade, despite his promotion, in view of a departmental proceeding initiated against him by the respondents on 24.5.2001. By the aforementioned memorandum dated 24.5.2001, the Chief General Manager, Assam Telecom Circle initiated a proceeding under Rule 14 of the CCS (CCA) Rules, 1965, for conducting an enquiry as to the allegations mentioned in Annexure-I of the said memorandum. The statement of article of charge mentioned in the said Annexure-I reads as follows:

"While Shri D.N. Baishya was posted and functioning as SDOP, Dispur under O/O the GMT Kamrup Telecom District, Guwahati during 1993-94, he failed to maintain absolute integrity and devotion to his duty in as much as he issued certificates for having received materials of a total value of Rs.21425/- allegedly supplied by M/s Pallabi Enterprises M/s DCM Retail Stores. The said firms had supplied the materials at very high rates and the same were procured without any approved purchase order of the competent authority. Sri D.N. Baishya did not also maintain any stock register to keep accounts of the received materials supplied by the firms and thereby due to his aforesaid acts contravened the provision of rule 3(1) (i)(ii) & (iii) of CCS (Conduct) Rule 1964."

2. The applicant submitted his written statement denying and disputing the charges levelled against him. In the written statement the applicant indicated without conducting a proper verification the chargesheet was issued against the applicant. In the written statement the applicant mentioned that the general section of the Office of the General Manager, Kamrup, used to process the purchasing of stores and supplies it to the unit office. The suppliers supplied the materials to the Office of the General Manager which were distributed to the unit offices on the basis

of.....

of the requisition placed by the particular unit. The applicant who was only in the unit office received the articles as per law. The applicant also, in support of his statement, annexed the relevant documents before the authority. During the pendency of this proceeding the authority appointed one Shri P.D. Sonowal, DE(DI), Office of the Chief General Manager, Telecom, Guwahati as Inquiry Officer to enquire into the charges levelled against the applicant vide order dated 8.11.2001. It has been stated that the said enquiry is still pending.

3. The applicant in this application contended that the alleged charges are not sustainable in law. At any rate the applicant was not responsible for any lapses or alleged misconduct.

4. Mr. A.C. Buragohain, learned counsel for the applicant, submitted that the alleged incident that took place in 1993-94 was sought to be revived at the time of the promotion of the applicant with oblique motive. Mr Buragohain submitted that the alleged statement of article with the imputation of misconduct did not disclose any misconduct, so far the applicant was concerned. The applicant was not responsible for placing any order or supply of the materials to the units. He was only held responsible for receiving the articles supplied. The learned counsel further submitted that since the promotion was of ad hoc nature there is no justification for denying the applicant the fruit of the promotion merely due to the pendency of the purported proceeding.

5. Mr A.K. Choudhury, learned Addl. C.G.S.C., on the other hand, submitted that a disciplinary proceeding is pending against the applicant. Since the applicant has submitted his written statement the matter requires to be enquired into and, in fact, the department took steps for conducting the enquiry by appointing the Inquiry Officer. Mr Choudhury also submitted that the Inquiry Officer, Shri P.D. Sonowal, though transferred from the Circle Office, Guwahati to the Office of the General Manager, Kamrup Telecom District, Guwahati vide order dated 27.11.2001 has been directed to complete the departmental inquiries already handed over to him while functioning as DE(Dept'l. Enquiry) circle office. In the facts and

circumstances.....

: 4 :

circumstances of the case, the learned Addl. C.G.S.C. submitted that this is a fit case where the department should be allowed to complete the enquiry. If the applicant is found innocent he would be exonerated on completion of the enquiry.

6. We have given our anxious consideration in the matter. We are also of the opinion that instead of going into the merits of the charges by us at this stage, it would be appropriate if the matter is finally decided upon by the Disciplinary Authority itself. We, therefore, direct the respondents, more particularly the respondent No.3- Chief General Manager, BSNL, Assam Telecom Circle, Guwahati to complete and finalise the departmental proceeding within two months from today. It would be open to the applicant to take all the points that he has raised here before the Disciplinary Authority. We, however, could not find any justifiable reason for not giving effect to the order of promotion to the applicant by virtue of the order dated 31.8.2001. We were not made aware of any statutory rules withholding the promotion duly made for pendency of the proceeding. The case of the applicant was also considered for promotion and the competent authority found him suitable for promotion. The very promotion is itself on ad hoc promotion. The O.M. dated 14.9.1992, relied upon by the respondents, pertains to the measure at the time of consideration of Government servants for promotion. The applicant was found suitable for promotion and in fact, by the order dated 31.8.2001 the posting order was also issued. The order of posting was only an ad hoc measure. As per the Government Circular review was to be conducted after six months.

7. Considering the nature of the charge and other surrounding circumstances, it cannot be said that the promotion of the officer would be against public interest. At any rate the department concerned even did not indicate anything in its order. In the circumstances we are of the view that since the very promotion is of ad hoc nature, the applicant is not to be deprived of his due promotion. The respondents are accordingly directed to give effect to the promotional order by promoting the applicant

to.....

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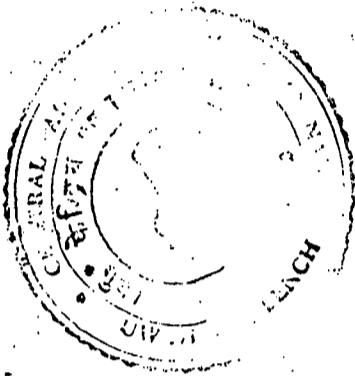
to the post of STS of ITS Group 'A' forthwith as an ad hoc measure.

8. With the above observation the application stands disposed of. There shall, however, be no order as to costs.

sd/-

Vice Chairman

sd/- Member (A)



STAMP 10/- 13-7-2002

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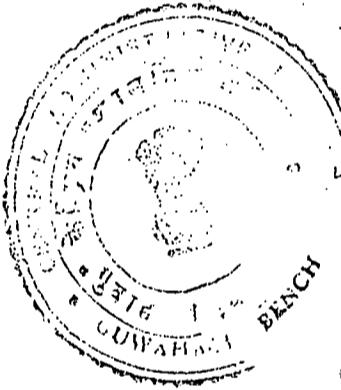
FORM NO. 4

(See Rule 42.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI.

## ORDER SHEET

Original No. 10 /0Misc. Petition No. 55 /2002 in O.A. No. 392/2001.Contempt Petition No.        /Review Application No.        /Applicant(s) U.O.I. and ONGRespondent(s) D. N. BaijhyaAdvocate for Applicant(s) A. K. Choudhury, Adm. C.G.S.C.Advocate for Respondent(s) A.C. Bhawagohain, N. Bora

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
	5.4.02	By this application the Telecom Department (BSNL) has sought for time for implementation of the judgment and order dated 31.1.2002 passed in O.A. No.392/2001. By judgment and order dated 31.1.2002 the Respondents were directed to complete the Disciplinary Proceeding within two months. We also ordered the Respondents for giving the promotion as ad hoc measure.
		Considering the facts and circumstances of the matter, we allow three months time to the Respondents to complete the Disciplinary proceeding. But this extension should not be construed as an extension of time for implementation of our direction in respect of granting ad hoc promotion to the applicant. The above direction for granting promotion on ad hoc basis is not suspended. It is fully operative.
<i>Certified to be true copy প্রতিপাদিত প্রক্রিয়া</i>		The application is allowed to the extent indicated.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

5/4/02  
Section Officer (S)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati  
State of Assam, India

Certified to be True Copy

  
Advocate.

To the Chief General Manager BSNL  
All India Circle Gyanvahad-181007  
Subject of Gyanvahad the 8th Feb/2002  
Sub:- Gramation to SCS of ITS Grant "A"  
part of Au. D. in Baishe S.C.D.E.

Sir, With due respect I like to inform  
you that I have been promised to SCS  
of ITS Grant "A" (DET) vide BSNL New Delhi  
letter No H12-H2/2001-para 7 dt 31-5-2001  
but my posting order has not been issued  
though the posting order to other SCS & have  
been issued vide your order No. STES-3/21  
(Pt 3/13) dt 24/7/01

that Sir, I have approached Shri  
CAT Gyanvahad branch v/s. Case No 372 of  
2001 for justice.

CAT order (original) dt 31st January  
2002 is enclosed herewith for your necessary  
actions and favourable order please.

that Sir I am a malana patient and  
leaving with restricted diet and I am having  
only 4 (four) meals daily now.

So, I request you kindly arrange my  
posting in the Circle office/Gyanvahad or in  
G.M. Kamrup office/Gyanvahad.

For this act of kindness I will  
remain grateful to you and oblige.

Yours faithfully

Encl - (one)

Original CAT order  
dt 31/1/02

2002  
(D. in Baishe)  
A.D.E. (MIS)

Certified to be True Copy

Dh  
Advocate.

10 C.G.T. Telecom  
Gyanvahad-7

To  
The Acting General Manager (Admin)  
of CGA Telecom, Agmark Circle, Guwahati. B  
Dated at Guwahati on the 8th Feb/2002

Sir:- Grammatical to STS of ITS Group 'A'  
Par of Mr. D. N. Borthakur B.E. S.T.B.

Sir, With due respect I like to inform  
you that I have been promoted to STS  
of ITS Group 'A' (B.E.) vide BSNL New Delhi  
letter no. H12-H2/2001-para 1 dtl 31-8-2001  
but my posting letter ~~not~~ has not been issued  
through the posting clerk for other S.T.B.'s  
have been issued vide my order no. STBS-3  
/21/01/136 dtl 24/9/01.  
At present site, I have approached Hon'ble  
CAT Guwahati branch vide case no. 392 of  
2001 for Justice.

CAT order (B.E. copy) dtl 31st Jan/2002  
is forwarded herewith for your necessary  
action and favourable order please.  
At present site, I am a maximum patient and  
having only 11 (eleven) years private now.

So, I request you kindly arrange my  
posting in the circle office Guwahati or in  
G.M. Chamber office Guwahati.

For this act of kindness I shall remain  
thankful to you and obliged.

Encd - (one)  
Copy of CAT order  
dtl 31/1/02

RECEIVED  
Served Effectively  
EFT/AR  
20/2/02  
R. Borthakur  
Dated 20/2/02  
A.D.T. (MIS)  
CGA Telecom  
Guwahati - 7

Certified to be true copy

Ab  
Advocate

NO. STES-3304

Dated at Guwahati the 17-7-2002

The following TES Group 'B' officers are ordered for officialising promotion to the cadre of STS of TTS Group 'A' on Local arrangement basis for the period of 179 days from the date of joining.

Sl. No	Name of the Staff	Staff no	Present with whom	On promotion posted as
1	Sri Sarat Ch. Das	9070	Z.O. Ghatwai	DE under GMID, GII
2	Sri P. K. Barman	9037	GMID, DE	DE under GMID, GII

The promotion is on purely temporary and local arrangement basis. This does not bestow on the officers any right for regular absorption in the cadre nor this period will be counted towards seniority in this grade.

The attorney may concurrently be compensated before expiry of the period mentioned, in case of posting of legal documents.

Chlorophyll and the underlying material

Scit

(A. K. Chellappa)

### Weighted (Delayed) Majority (Adam)

### Copy to

1-2. The General Manager, Railways, Government of India  
3. The DGM(Op), Circle office, Gauhati  
4.5. The Sr. AGRA&PVR, Circle office, Gauhati  
6. The ALU (Liaison), C.R, Gauhati  
✓7. The Office of commandant, C.R. C. C. Das, ADT (Dir), C.C. C. H.  
9-10. The PG of the officers  
11. Guard Sta. (B.C.D.A.C.)

Certified to be True Copy

*Ab*  
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

C.P. No. 38 of 2002  
(In O.A. No.392/2001)

Shri D.N.Baishya .....Petitioner

-versus-

Shri Prithipal Singh & 2 others....Respondents.

Filed by:-

( B. C. Pathak )  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench : Guwahati

( AFFIDAVIT -IN-REPLY FILED BY THE RESPONDENT NO.2, Shri  
G.S.Grover .)

I, Shri G.S.Grover, presently working and holding the charge of the Chief General Manager, Assam Circle, Bharat Sanchar Nigam Limited, Ulubari, Guwahati-7, do here-by solemnly affirm and state as follows :

1. That a copy of the notice dt.10.9.2002 along with a copy of the Contempt Petition No.38/2002 (hereinafter referred as the "petition") has been served on me. I have gone through the same and understood the contents thereof.
2. That before traversing the various paragraphs made in the said petition, I say that being aggrieved by the order dated 31.1.2002 passed in O.A. No. 392/2001, the respondents filed an application in the Hon'ble Gauhati High Court vide WP( C ) No.2036/2002 challenging the legality and validity of the said order dt. 31.1.2002. The Hon'ble Gauhati High Court, however, dismissed the said writ petition on 2.4.2002 as devoid of any merit. Being aggrieved by the said order of the Hon'ble Gauhati High Court, the respondents have preferred an SLP before the Hon'ble Supreme Court vide SLP No.8449/2002. The said SLP came up for hearing and the Hon'ble Supreme Court has stayed the operation of the order passed by the Hon'ble CAT, Guwahati Bench and the necessary notice to the petitioner (applicant in the O.A.)have been issued by the Hon'ble Supreme Court. This has been communicated vide letter No.115/11/2001-STG-I dt.11.11.2002 by the higher authority to me with the instruction to defend this contempt case with the above facts and in view of the present position of the matter pending in the Hon'ble Supreme Court.

The copy of the said letter dt. 11.11.2002 is annexed as the ANNEXURE-R1.

3. That with regard to the statements made in para 1 to 9 of the petition, I say that in view of the above position of the matter and as the same is being sub-judiced before the Hon'ble Apex Court, I do not admit anything as alleged in those paragraphs. In this connection, I also state that the respondent shall follow the judgment whatever it may be, as when such judgment is passed by the Hon'ble Supreme in the said case. I also say that as the respondents exhausted the legal remedy available to them, they have not committed any wrong in doing so and hence there is no contempt of court as alleged by the petitioner. The respondents have not disobeyed the order passed by this Hon'ble Tribunal but exhausted the legal remedies open to them, which does not amount to any contempt of court.

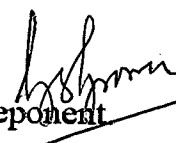
4. That in view of the above facts and circumstances of the case, it is a fit case where this Hon'ble Tribunal would be pleased to dismissed the contempt petition.

5. That in any case, if this Hon'ble Tribunal in its opinion comes to a finding that the respondents as liable to contempt of court, in that case, I hereby seek unqualified apology and I may be exonerated from any such charge of contempt.

6. That the statements made in this affidavit in para 1,3 to 6 are true to my knowledge and belief, those made para 2 being matter of records, are true to my information derived there from and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material fact.

And I sign this affidavit on this 12 th day of December, 2002 at Guwahati.

Identified by me



Deponent

(B.C.Pathak)  
Advocate.

Solemnly affirmed and signed before me by the deponent who is identified by Shri B.C.Pathak, Advocate, on this 12 th day of December, 2002 at Guwahati.

Magistrate/Advocate

ANNEXURE : R

**BHARAT SANCHAR NIGAM LIMITED  
(A GOVT OF INDIA ENTERPRISE)  
O/O THE CHIEF GENERAL MANAGER  
ASSAM TELECOM CIRCLE::ULUBARI::GUWAHATI-7**

No. STES-21/ 421/ 17

Dated at Guwahati the 17.12.2002.

To

✓ Shri B. C. Pathak  
Addl. CGSC.  
CAT, Guwahati Bench  
Guwahati.

Sub: CP No. 38/2002 ( arising in OA No. 392/2001 ) filed by Shri D. N. Baishya.

Sir,

With reference to this office letter of even number dated 12/11/2002, it is to be intimated that the Hon'ble Supreme Court of India has granted stay of the impugned Judgment. Copy of the order dated 11/11/2002 delivered by the Hon'ble Supreme Court of India is enclosed herewith.

It is therefore, requested to bring it to the Notice of the Hon'ble Tribunal with a prayer to dismiss the CP No. 38/2002 in next hearing on dated 07/01/2003.

With regards.

Enclo:- A/A.

Sincerely yours

( S. C. Das )

Asstt, Director Telecom. ( Legal )



Court case  
MOST IMMEDIATE

No.119/11/2001-STG-1

## Government of India

Ministry of Communications & Information Technology

## DEPARTMENT OF TELECOMMUNICATIONS

### STG-I SECTION

Room No.419, Sanchay Bhawan,  
20 Ashoka Road, New Delhi-110001.

Dated: 2<sup>nd</sup> December, 2002.

To,

The Chief General Manager,  
Assam Telecom Circle,  
Guwahati.

Subject: CP No.38/2002 in OA No.392/2001 filed by Shri D N Baishya, an officer of TES Group-B in CAT, Guwahati Bench – Regarding.

Sir,

I am directed to refer to the subject noted above and to intimate that the Hon'ble Supreme Court of India vide order dated 11/11/2002 has granted stay on the operation of the judgment dated 02/04/2002 of Hon'ble High Court of Guwahati in WP No.2036/02 filed against judgment dated 31/01/2002 in OA No.392/2001 filed by Shri D N Baishya. A copy of the said order is also enclosed. It is further mentioned that Shri D N Baishya has filed CP No.38/2002 against non-implementation of judgment of dated 31/01/2002 of CAT, Guwahati Bench. Now in view of the stay granted by Hon'ble Supreme Court of India, the Hon'ble CAT may be prayed for dismissal of the Contempt Petition.

2. The developments in this case may also be intimated to this office on priority basis.

Yours faithfully,

Ram Autar

[ RAMAUTAR ]

Assistant Director General[SGT]  
Tel.No.3716570 / Fax No.3716099

-5-

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SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

CC 8449

Petition(s) for Special Leave to Appeal (S.L.P.) No. /2002

(From the judgment and order dated 02/04/2002 in W.P. (C)2030/02  
of the High Court of Jharkhand)

UNION OF INDIA

Petitioner (s)

VERSUS

DINA NATH BAISHYA

Respondent (s)

(With I.A.1 for c/delay in filing SLP)

Date : 11/11/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH

HON'BLE MR. JUSTICE D.H. DHARMADHIKARI

For Petitioner (s)

Mr. R.N. Trivedi, Asst  
Mr. P.S. Narasimha, Adv.,  
Mr. Ananga Bhattacharyya, Adv.,  
Mr. Sridhar P, Adv.  
Mr. P. Parmeswaran, Adv.

For Respondent (s)

UPON hearing counsel the court made the following

ORDER D.E.R.

Issue notice.

Non-availability operation of the impugned Judgment is stayed.

X  
(Vijay Kumar Sharma)  
Court MasterJanki Bhattacharya  
(Janki Bhattacharya)  
Court Master  
B. Bhattacharya