

( SEE RULE -4 )

GENERAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

....

ORDER SHEET

Original Application No : \_\_\_\_\_

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

Contempt Petition No. \_\_\_\_\_

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

57/02 M.O.A 157/01

Applicant (s) S. Mahanta

-Vs-

Respondent (s) H.O.I. Ponn

Advocate for the Applicant (s) Mr. S. Sarma, Mr. D. Borah

Advocate for the Respondent(s) Mr. B.C. Patthak, Mr. H. Devi

Notes of the Registry	Date	Order of the Tribunal
This Contempt Petition has been filed by the Counsel for the petitioner praying for punishment of the Contemner/Respondent for non-compliance of order dated 29.1.02 by this Honble Tribunal in M.O.A 157/2001.	5.11.02	None appears for the applicant. List on 15.11.02 in presence of the applicant.
Laid before the Honble Court for further order.	18.11.02	Heard Mr. S. Sarma, learned counsel for the applicant. Issue notice to show cause as to why the contempt proceedings shall not be initiated. List again on 18.12.2002 for orders.
for Section officer	mb	Member Vice-Chairman

77  
2  
Seets & Encls Received.  
Notice prepared and sent  
to D/S for giving the  
Respondent No. 184  
by Regd. A.D. *[Signature]*  
DINo 3288  
Dtd 4/12/02

18.12.02

Stand out. List on 20.1.2003  
for orders.

*[Signature]*  
Vice-Chairman

No. reply has been  
filed

mb

20.1.03 Put up again on 3.2.2003  
to enable the parties to obtain necessa-  
ry instructions on the matter.

*[Signature]*  
17.12.02

No. Reply has been  
filed.

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

3.2.2003 The Time was granted to the  
respondents to file reply. No reply was  
forthcoming and also learned counsel for  
respondents Mr. B.C. Pathak, was absent.  
Put up again on 13.2.2003 for further  
orders.

*[Signature]*  
31.1.03

*[Signature]*  
Member

*[Signature]*  
Vice-Chairman

mb

13.2.2003 Put up the matter again on  
10.3.2003 to enable the respondents to  
file reply.

No. reply has been  
filed

mb

10.3.2003 Two weeks further times is allowed  
to the respondents to file reply, if any.  
List on 2.4.2003.

*[Signature]*

*[Signature]*  
Vice-Chairman

*[Signature]*  
Vice-Chairman

bb


2.4.2003

Pu up again on 24.4.2003

for orders on the prayer of Mr. B.C. Pathak, learned counsel for the respondents.

No. reply has been  
filed.

230  
23.4.03.

  
Vice-Chairman


mb

24.4.2003

Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents Nos. 4 and 5 prays for time to file reply. Mr. Pathak, also stated that the respondent No.3 Sri G.S. Grover, Chief General Manager is no longer there. The respondents are allowed further four weeks time to file reply, if any. List on 26.5.2003 for orders.

No. reply has been  
filed.

230  
23.5.03

  
Vice-Chairman

mb

26.5.2003

Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.  
The Hon'ble Mr. S.K. Hajra, Member (A).  
  
Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents, and also perused the affidavit-in-reply filed by one of the respondents.


Abbedonit in reply filed by Respondent No.3 on 26.5.2003 in the Court & kept in the file.

26.5.2003

5.6.2003

Copy of the order has been sent to the office for filing the same to the L/Adm for the parties etc

From the materials on record it appears that the judgment and order of the Tribunal is under examination before the Gauhati High Court in W.P. (C) No.5887/2002. In that view of the matter, the C.P. stands closed at this stage.

  
Member

  
Vice-Chairman

mb

4

filed by  
Pratap  
(B. C. Pathak) 26/5/03  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench: Guwahati

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI.**

**CONTEMPT PETITION NO. 57/2002**

**IN O.A. NO. 157/2001**

**Shri Sarbananda Mahanta**

**... Petitioner**

**-Vs-**

**Shri M.A. Chowdappa & 4 Others**

**... Respondents**

**(Affidavit-in-reply filed by the Respondent No. 4, Shri Harishankar Sarma)**

I, Shri Harishankar Sarma, son of (Late) Sri C.P. Sharma aged about 44 years, resident of Moradabad (U.P.) at present working as General Manager(M), Bharat Sanchar Nigam Limited, do hereby solemnly affirm and state as follows :

1. That a copy of the C.P. No.57/2002 (referred to as the "Petition") has been served on me. I have gone through the same and understood the contents thereof. As I have been implicated as respondent No.4, I am fully acquainted with the facts and circumstances of the case.
2. That the statements made in the petition, which are not specifically admitted are hereby denied by me.

3. That so far the respondent no. 1 and respondent no.3 are concerned, I say that there is no post of Secretary, HRD, Ministry of Telecommunication existing in Bharat Sanchar Nigam Limited, Corporate Office, New Delhi. The respondent no.3 who was the Chief General Manager, Assam Circle, has been transferred from Assam to elsewhere and in his place a new incumbent has joined as the Chief General Manager, Assam Circle. The respondent No.5 has also been transferred out of the Circle and he is no longer holding the said post in the said office. As the power and authority now lies with the new incumbents, the new Chief General Manager, Assam Circle and the other respondents are needed to be added as the respondents by substitution.
4. That with regard to the statements made in paragraphs 1 and 2 of the petition, I say that after hearing the parties in the above case, this Hon'ble Tribunal was pleased to pass an order on 29.1.2002 in the O.A. No.157/2001. By the said order this Hon'ble Tribunal held that the applicant/petitioner will be entitled for his seniority in the P.I cadre from 1973 with all consequential benefits. The Hon'ble Tribunal also held that since the applicant completed 16 years of service as P.I., as per O.T.B.P. Scheme, the applicant is also entitled to promotion for the post of J.T.O. After receipt of the copy of the said order, the department took up the matter with the competent authorities for necessary instruction as to whether the order passed by the this Hon'ble Tribunal is to be complied with or be taken up for judicial review in the Hon'ble Gauhati High Court. In exercise of the said process as stated above, it took some time for the respondents to come to a decision. The competent authority took a decision and accordingly a writ petition has been filed in the Hon'ble Gauhati High Court which has been registered as W.P.(C) No.5887/2002. The Hon'ble Gauhati High Court on preliminary hearing of the said writ petition passed an order on 13.9.2002 and issued rule on the said writ petition thereby calling upon the petitioner/respondents to show cause as to why a writ should not be issued as prayed by the writ petitioner. Now, the impugned order passed by this Hon'ble Tribunal is subjudiced for judicial review in the Hon'ble Gauhati High Court. As the matter is subjudiced and is under scrutiny in the Hon'ble Gauhati High Court, non-compliance of the order passed by the Hon'ble Tribunal in the above noted Original Application does not amount to willful disobedience and therefore, the contempt petition is liable to be dropped/dismissed pending the final decision of the Hon'ble Gauhati High Court.

~~A copy of the said order passed in OA No. 157/2001 dt. 29.1.2002 is annexed as Annexure-R1.~~

5. That with regard to the statements made in para 3 and 4 of the petition, I say that after receipt of the order passed by the Hon'ble Tribunal, the respondents had the options open in complying with the order or to approach the next higher court for judicial review. At that time, when the applicant/petitioner submitted his representation thereby enclosing the copy of the order, the respondent No.5 wanted some information from the applicant/petitioner which was not readily available with the respondent no. 5. In the meantime, however, the competent authority took a decision for judicial review of the matter and accordingly the writ petition was filed in the Hon'ble Gauhati High court. The respondent No.5 being the officer in the lowest grade had no information about the decision that was taken by the higher authority at their level to go for judicial review of the matter in the next higher court. The matter being under judicial scrutiny, the respondents cannot implement the order at this stage. I also state that the communications made by the respondent No.5 seeking the information had no nexus with the decision of the higher authority to challenge the order in the next higher court. I also state that I have no power to take any decision either to implement the order or to challenge it in the next higher court. I have no direct financial power to sanction or grant the benefits to the applicant as directed by the Hon'ble Tribunal.

The copy of the order passed by the Gauhati High Court dated 13.9.2002 is annexed as Annexure-R2.

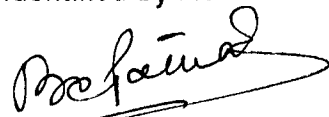
6. That from the above facts and circumstances of the case and the matter being subjudiced for further judicial review by the Higher Court, the respondents have not done anything which may amount to contempt of court. However, if in any case, this Hon'ble Tribunal comes to a finding that this respondent is liable for contempt of court, in that case I tender my unqualified apology to exonerate me for any such charges as I have not done anything which may otherwise amount to willful disobedience.
7. That this deponent has the highest regard to the court and judicial authorities and he knows that a willful disobedience to court order amounts to contempt of court. But in this case, the respondents' including me has not done any such willful

disobedience to the Hon'ble Tribunal's order. Moreover, the matter being subjudiced in the higher court for judicial review, the non-compliance of the order of this Hon'ble Tribunal is only casual, bonafide, unintentional act and genuine inability to comply with the order and hence, such action of the respondents does not amount to willful disobedience to constitute contempt of court.

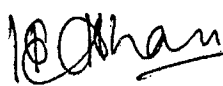
8. That the statements made in paragraphs 1, 2, 3, 6, 7 and 8 — are true to my knowledge and believe, those made in paragraphs 4 and 5 — being matter or records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I this affidavit on this 24<sup>th</sup> day of May, 2003 at Guwahati.

Identified by me

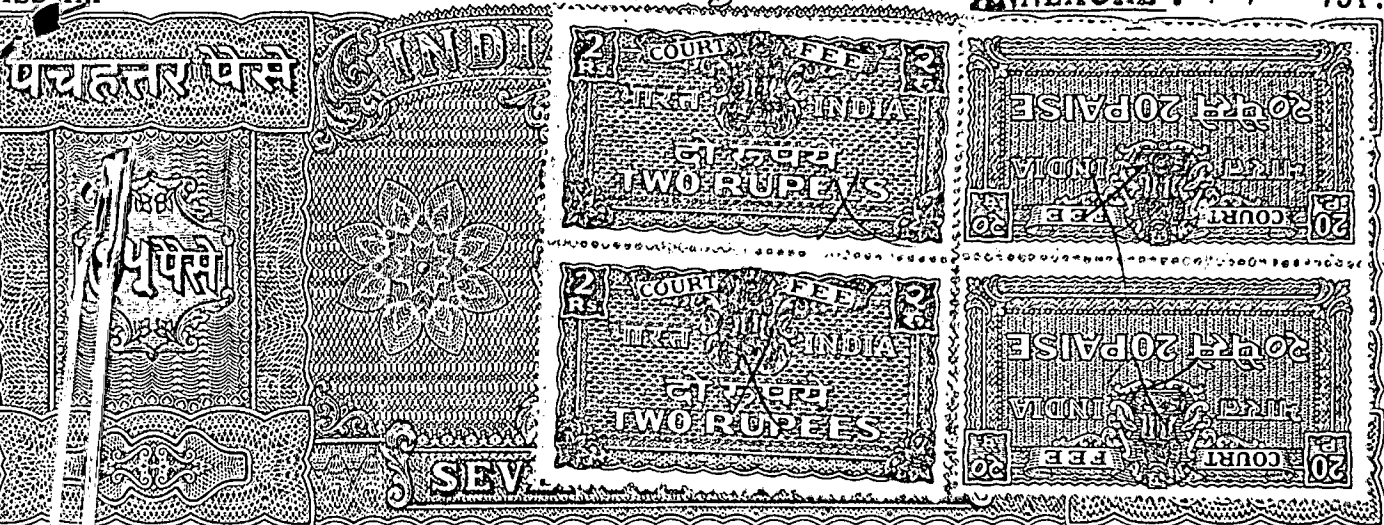


Advocate.

  
(HARI SHANKAR SHARMA)  
Deponent

Solemnly affirmed and signed before me by the deponent, who is identified by Sri B.C. Pathak, advocate, on this 24<sup>th</sup> day of May, 2003 at Guwahati.

  
Magistrate/Advocate.



प्रति को के लिए आवेदन की तारीख Date application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
12/03	17/12/03	17/12/03	17/12/03	17/12/2003

IN THE GAUHATI HIGH COURT  
(THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA MANIPUR TRIPURA  
MIZORAM & ARUNACHAL PRADESH)

W.P.(C) NO. 5887/2002

1. Union of India,  
represented by the Secretary to the  
Govt of India Ministry of Telecommunications  
Bharat Sanchar Nigam Limited, New Delhi.
2. The Director General Telecommunications,  
Bharat Sanchar Nigam Limited, New Delhi -1.
3. The Director, Maintenance N.E. Telecom  
Region Bharat Sanchar Nigam Limited Senapati Road,  
Silphkhuri, Guwahati - 3.
4. The Chief General Manager,  
Telecom, Bharat Sanchar Nigam Ltd.,  
N.E. Circle, Ulubari, Guwahati- 7.
5. The Telecom District Engineer,  
Bharat Sanchar Nigam Limited,  
Nagaon Telecom, District : Nagaon.

...Petitioners.

-Vs-

Sri Sarbananda Mahanta,  
J.T.O. (Junior Telecom Officer),  
W.T.C.E.P.O. Nagaon, Dist : Nagaon.

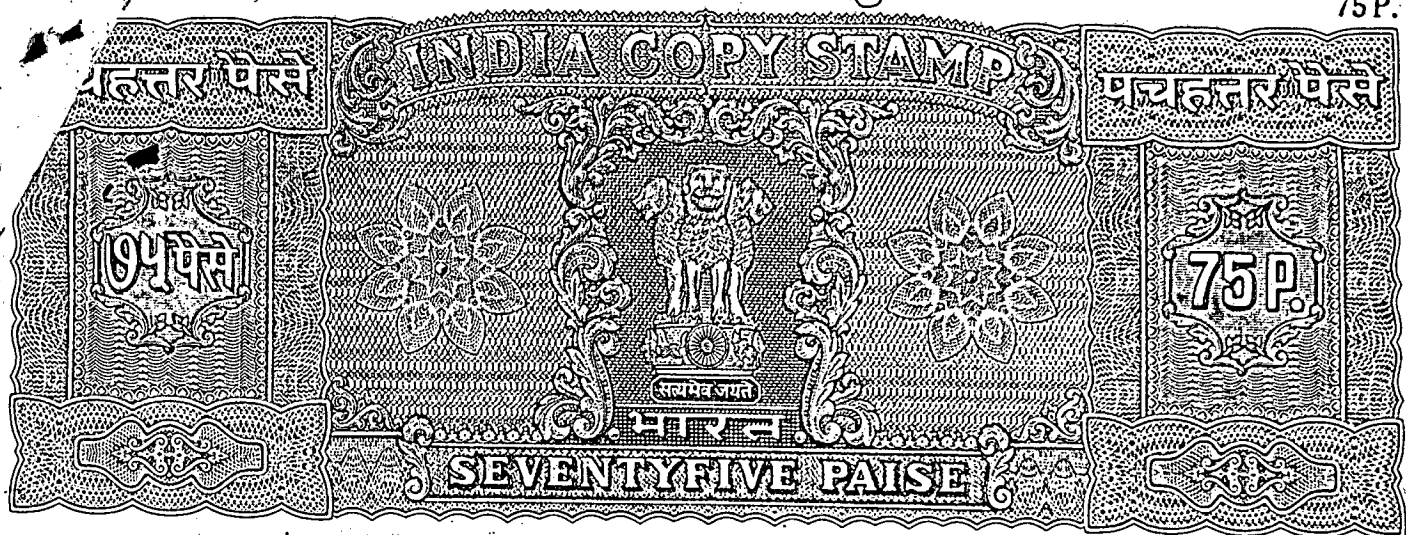
...Respondent

PRESENT.

THE HON'BLE MR JUSTICE JN SARMA  
THE HON'BLE MR JUSTICE B.LAMARE

Contd..2.





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

2.

FOR THE PETITIONERS : Mrs G. Singh, Advocate.

13.09.2002

ORDER

Heard Mrs. G. Singha, Learned Advocate for the petitioners.

Call for the records.

Let a Rule issue calling upon the respondents to show cause as to why a Writ should not be issued as prayed for ; and/ or why such further order or other orders shall not be passed as to this court may seem fit and proper.

Steps shall be taken by registered post and/or by hand.

Rule is made returnable within six weeks.

The prayer for stay shall stand rejected.

Sd/-B.LAMARE  
JUDGE

Sd/-JN SARMA  
JUDGE

Registered No. of Petition	2773
Photostate by/Type by	M. 2.03
Read by	11/2/03
Compared by	13/2

REGISTERED NO BY WRIT COPY  
Kushna Kanti Sharma  
Date 17th day of Feb 2003  
Superintendent (Copying Section)  
Gauhati High Court  
Authorized U/P 76, Vol I, 1572

17/2/03

10

11

IN THE CENTRAL ADMINISTRATIVE:: TRIBUNAL::  
GUWAHATI BENCH:::: GAUHATI:

Case Category- Civil Original Contempt petition.

- Contempt Petition No. 57 /02  
W.O.A 157/01

Sri Sarbananda Mahanta .....Petitioner.

- Vs -

Union of India and others ....

..... Respondents

I N D E X

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Filed by

*Sukumar Saha*

Advocate .

11/10/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GAUHATI BENCH ::: GAUHATI.

Filed by  
Sri Sarbananda Mahanta  
through  
Sukumar Saikia  
Advocate  
11/10/02

Contempt Petition No. <sup>ti</sup> 57 of 2002.

In Original Application No. 157 of 2001.

IN THE MATTER OF :

A Petition under Section 17 of the  
Central Administrative Tribunal Act, 1985  
praying for punishment of the contemptuer/  
Respondent for non-compliance of judgement  
and order passed by the Hon<sup>ble</sup> Tribunal  
in O.A. No. 157 of 2001 on 29.01.2002.

- AND -

INT THE MATTER OF :

Sri Sarbananda Mahanta ... Applicant.

- Vs -

Union of India and Others ... Respondent.

- AND -

Sri Sarbananda Mahanta,  
Son of Late Ghanakanta Mahanta,  
Resident of Nagaon,  
presently working as S.D.E. in  
Lunglei, Mizoram.

Contd...2.

Sarbananda Mahanta

12  
Vs

1. Mr. M.A. Chowdappa,  
Secretary, H.R.D., Ministry of  
Telecommunications,  
Bharat Sanchar Nigam Limited,  
New Delhi.
2. Sri Vinod Vaish,  
Chairman, Telecom Commission,  
Bharat Sanchar Nigam Limited,  
New Delhi.
3. Sri G.S. Grover,  
Chief General Manager, Telecom,  
Bharat Sanchar Nigam Limited,  
Assam Circle, Ulubari, Guwahati-7.
4. Sri Harishankar Sarma,  
General Manager, Telecom,  
Bharat Sanchar Nigam Limited,  
Tax Building / Top Floor,  
C.D.O. Compound, Shillong-7936001.
5. Sri Pankaj Das,  
Telecom District Manager,  
Bharat Sanchar Nigam Limited,  
Nagaon Telecom District,  
Nagaon.

... Respondents/Contempts

The humble petition of the above named  
petitioner -

Contd...3.

Sarbananda Mahanta

MOST RESPECTFULLY SHEWETH :

1. That your petitioner had filed the original application No. 157/2001 before the Hon'ble Central Administrative Tribunal Bench, Gauhati for directing against non-implementing the order dated 31.10.2002 issued by the Accounts Officer, Bharat Sanchar Nigam Limited, Office of the Director ( Maintenance ), Eastern Telecom Region, Guwahati-781 003 ( i.e. the Respondent No. 3 of the O.A. No. 157/2001 ) for granting relief in case of time bound promotion and the promotional benefits with fixation of pay of the applicant on seniority basis as P.I. and J.T.O. with retrospective effect along with all consequential benefits and also for not disposing of the representation dated 30.11.2000 of the petitioner by the Respondent No. 3, i.e. the Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, N.E. Circle, Ulubari, Guwahati - 781 007.

2. That this Hon'ble Central Administrative Tribunal, Gauhati Bench, on 29.01.2001, heard the matter finally and the above said Original Application No. 157/2001 was allowed by the Hon'ble Tribunal. The Hon'ble Tribunal after hearing both the parties was pleased to pass the order on the same day, i.e. 29.01.2001 by which the Hon'ble Bench came to the conclusion that from the materials on record

Contd...4.

*Sarbananda Mahanta*

it appeared that the case of the applicant was not properly looked into by the Respondents. The Hon'ble Bench further stated that as per the own statements of the Respondents the applicant was recruited and appointed as P.I. in the department as a departmental outsider candidate against the recruitment year 1973. The applicant was sent for training in the year 1977. There was no good reason assigned as to why he was not sent for training in 1973 though similarly situated persons were sent for training at Guwahati itself in the year 1973-74. Those persons were given higher selection grade with effect of 1983. Since the other similarly situated persons were given similar benefit, the Hon'ble Tribunal was of the opinion that the applicant was entitled to get the benefit in 1983. Since the applicant had completed 16 (sixteen) years of service as P.I. as per O.T.B.P. scheme, he was also entitled to the promotion for the post of J.T.O. on and from 1989.

In view of the aforesaid decision of the Hon'ble Tribunal, the applicant would be entitled for his seniority in the P.I. from 1973 with all consequential benefits.

Annexure ' A ' is a photocopy of the judgement and order dated 29.01.2001, passed by this Hon'ble Central Administrative Tribunal, Gauhati Bench, Gauhati in Original Application No. 157/2001.

*Sarba nanda Mahanta*

Contd...5.

3. That thereafter, the applicant had duly furnished the copy of the aforesaid judgement on 12.2.2002 with a forwarding letter to the Respondent No. 3 and the Respondents/Contemptner got the said copy of the judgement from the applicant vide letter No. E-342/CAT-Case/Pay Fixation/3, dated at Nagaon, the 27.3.2002 issued by Respondent No. 5. As per the said letter the Respondent No. 5 had asked the petitioner to produce or arrange to produce all the service books of the concerned employees related to the petitioner in the said matter so that the accounts personals of his office can identify the actual and exact stages at which the said benefits actually accrued to prepare the required due drawn bills in relation to the petitioner.

A copy of the forwarding letter dated 12.2.2002 issued by the applicant and a copy of the letter dated 27.3.2002 issued by the Respondent No.5 are annexed and marked as Annexure 'B' and 'C' respectively.

4. That immediately after receiving the aforesaid letter dated 27.3.2002 from Respondent No.5, the applicant had replied through a letter on 1.5.2002 to the Respondent No. 5 by which he intimated the requisite informations of similarly situated persons, namely- Sri Kanat Saikia, Sri Benudhar Bora and Sri Nirmal Kt. Saha regarding their present posts and salaries etc. as per their service books as asked for by the Respondent.

Contd....6.

*Sarbananda Mahanta*

although it was the duty and responsibility of of the respondent to collect such informations of service books etc. of their officials. It is pertinent to mention here that the applicant had to approach the Hon<sup>ble</sup> CAT twice and all the time, he had submitted proper documents to the Respondents which were already received by them and after hearing both the parties the Hon<sup>ble</sup> Tribunal had passed judgement in favour of the applicant both times. But even after receiving those informations by the applicant vide his letter dated 1.5.2002, the Respondents/Contemptner did not implement the said judgement dated 29.01.02 and no steps have been taken by the Respondents/Contemptners for early consideration of the grievances of the applicant as per said judgement ; as such your applicant is compelled to file this Contempt application before this Hon<sup>ble</sup> Tribunal for seeking justice ; as the applicant is now in the verge of retirement.

A copy of the letter dated 1.5.2002 issued by the Respondent No. 5 is annexed and marked as Annexure - 'D'.

5. That your applicant begs to state that inspite of clear cut orders, passed by the Hon<sup>ble</sup> Central Administrative Tribunal, Gauhati Bench,

*Sarbananda Mohanta*

Contd...7.



Guwahati, the Respondents/Contemptners have not taken steps for early implementation of the above stated order, dated 20.01.2002, passed in Original Application No. 157 of 2001. It appears that the Respondents/Contemptners have shown disrespect, disregard and disobedience to this Hon'ble Tribunal which is confirmed from the letter dated 27.03.2002 (Annexure (C) ) issued by the Respondent No. 5 wherein he stated as follows :- " Whatever verdicts, the Hon'ble CAT or Hon'ble High Court of Assam, Manipur, etc. may pass in your favour granting your legitimate claim, but that alone is not sufficient in summing up the benefits due to you ".

The Respondents/Contemptner deliberately, with a motive behind, have not complied the Hon'ble Tribunal's judgement and order dated 29.01.2002, passed in Original Application No. 157 of 2001.

As such, the Respondents/Contemptners deserve punishment from this Hon'ble Tribunal. It is a fit case where the Respondents/Contemptners may be directed to appear before this Hon'ble Tribunal to explain as to why they have shown and disrespect to this Hon'ble Tribunal.

6. That this petition is filed bonafide and to secure the ends of justice.

Sarbananda Mahanta

In the premises, it is, most humbly prayed that your Lordships would be pleased to admit this petition and issue contempt notice to the Respondents/Contempts to show cause as to why they should not be punished under Section 17 of the Central Administrative Tribunal Act, 1985 or pass such any other order or orders as this Hon'ble Tribunal may deem fit and proper.

Further, it is also prayed that in view of the deliberate disrespect and dis-obedience to this Hon'ble Tribunal's order dated 29.01.2002 passed in Original Application No. 157 of 2001, the Respondents/Contempts may be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished under contempt to Court proceeding.

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

*Sarbananda Mahanta*

DRAFT CHARGE

The Applicant aggrieved for non-compliance of judgement and order dated 29.01.2002, passed by this Hon<sup>ble</sup> Tribunal in Original Application No. 157 of 2001. The Respondents/Contemtners have wilfully and deliberately violated the judgement and order dated 29.01.2002. Accordingly, the Respondents/Contemtners are liable for contempt of Court proceedings and severe punishment thereof as provided under the law. They may also be directed to appear in person and reply the charges, levelled against them before this Hon<sup>ble</sup> Tribunal.

Sarbananda Mahanta

AFFIDAVIT

I, Shri Sarbananda Mahanta, son of Late Ghana Kanta Mahanta aged about 59 years, resident of Nagaon District-Nagaon presently residing at Lungley, Mizoram do hereby solemnly affirm and say as follows :-

1. That I am the Petitioner in Original Application No. 157 of 2001 and also the Applicant of the instant petition and as such I am acquainted with the facts and circumstances of the case.

2. That the contents of this affidavit and the statements made in paras 1, 5 of the above petition are true to my knowledge and those made in paras 2,3,4 are being matters of records derived therefrom, I believe to be true and those made in the rest are my humble submission before this Hon<sup>ble</sup> Tribunal.

I sign this affidavit on this the 11<sup>th</sup> day of October, 2002 at Guwahati.

Identified by me

Sukumar Sharma

Advocate

11/10/02

Deponent/Applicant.

Sarbananda Mahanta

Solemnly affirmed before me by the deponent who is identified by - Sri Sukumar Sharma, Advocate on this 11<sup>th</sup> day of October, 2002 at Guwahati.

Satya Brata Sarma  
11-10-02  
ADVOCATE



## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

- 11 -

Original Application No. 157 of 2001.

Date of Order : This the 29th January, 2001.

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER

Shri Sarbananda Mahanta, J.T.O.  
(Junior Telecom Officer)  
Nagaon, Assam.

. . . Applicant.

By Mr.Sukumar Sarma.

- Versus -

1. Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Telecommunications  
Bharat Sanchar Nigam Ltd.  
New Delhi.
2. The Director General  
Telecommunications  
Bharat Sanchar Nigam Ltd.  
New Delhi-1.
3. The Director  
Maintenance N.E.Telecom Region  
Bharat Sanchar Nigam Ltd.  
Senapati Road, Silpukhuri  
Guwahati-781 003.
4. The Chief General Manager  
Telecom, Bharat Sanchar Nigam Ltd.  
N.E.Circle, Ulubari  
Guwahati- 781 007.
5. The Telecom District Engineer  
Bharat Sanchar Nigam Ltd.  
Nagaon Telecom District Nagaon. . . . Respondents.

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

ORDERCHOWDHURY J.(V.C.):

This is an application under Section 19 of  
the Administrative Tribunals Act, 1985, wherein the  
applicant has sought for the following reliefs :


Contd.. 2

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"i) To issue a direction to the respondents to give the applicant all the benefits of O.T.B.P. (Official time bound promotion) scheme with fixation of proper pay scale of the applicant on seniority basis as P.I. and J.T.O. with retrospective effect and all consequential benefits.

ii) A direction to the respondents to give seniority in P.I. cadre from 1973 to 1974 with all consequential benefits.

iii) To give a direction to the respondents to give the applicant the first promotion lower selection grade with effect from 1983 alongwith similarly situated candidates viz Sri Kanak Saikia, Sri Benudhar Bora and other candidates of gradation list of 1973 i.e. after completion of 10 years service with effect from 1973."



2. The applicant is an ex-armyman. He was enlisted in the Indian Army Signalling Corps on 21.1.1963 and served in the Army Signalling. He was released from Army in 1968. The applicant was offered and he joined in the post of Time Scale Clerk (T.S.Clerk) in Shillong Engineering Division of North Eastern Circle of P. & T. Department on 12.10.69. There are two channels for promotion to the cadre of Junior Engineering (J.T.O.). One is by passing the departmental competitive examination and the other is by passing the trade test examination for which only 20% from the cadre of P.I. Transmission Assistant, A.E.A., R.O. etc. are allowed to be filled up. The applicant was allowed to appear in the J.E. examination in the year 1973, but in the midst of examination, he was not allowed to appear in the remaining part of the examination on the ground that he did not complete five years of service in the

Contd.. 3

department. In 1980 he appeared in the J.E. examination in Nagaland Division at Dimapur while he was posted in Nagaland. According to the applicant, the result was not declared. The respondents at para 11 of the written statement stated that in the absence of the available records the same could not be verified. The applicant was sent for training from 2.3.77 in the R.T.T.C., Ahmedabad. According to the applicant, he was eligible to be sent for training in 1973-74 itself and infact similarly situated employees were sent for that training at Guwahati. The applicant was prejudiced in not sending him for training at due point of time. The applicant applied for appearing in the J.E. examination in 1982, but he did not get the admit card. When asked he was told that he was not eligible for appearing in the said examination as he crossed the upper age limit for the examination. The applicant also mentioned about the "one" time Board Promotion introduced by the department to overcome the stagnation in different cadres of the department after completion of 16 years of service in one cadre.

3. The applicant represented before the authority and the authority by its communication dated 26.3.93 informed the applicant that due to non-availability or relevant records, it was not possible to take further action by the Circle Office at that stage. The applicant then moved this Tribunal by way of an Original Application which was numbered and registered as O.A.20

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of 1994. The Tribunal by its order dated 4.2.1997 directed the applicant to file a representation within the time specified and the respondents were directed to dispose the said representation. The applicant submitted his representation on 20.3.1997 and his case was duly forwarded by the competent authority. In the meantime, by order dated 16.10.97 the pay of the applicant of Rs.6050/- in the scale of Rs.5000-150-8000 was raised to Rs.6050-200-10500 w.e.f.17.6.96 on his promotion as J.T.O. By order dated 18.3.98 the representation of the applicant was turned down. Limitation was taken as a ground for rejecting the representation. The applicant again submitted representation before the authority urging them to provide the necessary benefit. Failing to get appropriate remedy the applicant moved the Tribunal by way of this application.

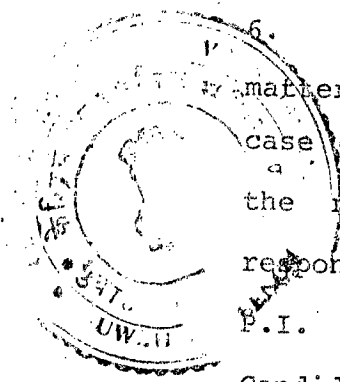
4. The respondents filed written statement contesting the claim of the applicant. In the written statement also the respondents pleaded the plea of limitation. It was also mentioned that during the relevant time selection, appointment, training promotion etc. were decided by PMG N.E.Circle (combined) and thereafter the control was transferred to G.M. N.E.Circle (combined) and then to CGM, Assam Circle.. The applicant was also transferred to various organisations and during the period. The relevant records of the case/<sup>which</sup> was maintained in different offices at different times were not available for verification. The respondents in its written statement denying the contention of the applicant averred that on the basis

Contd.. 5



of his performance held on 29.1.1995 he was sent for J.T.O. training. While working as P.I. the applicant appeared in the qualifying test for promotion to J.T.O. against 35% quota of vacancies held on 29.1.1995 and came out successful. Alongwith other successful candidates his name was enlisted at Sl.No.8 in the panel. The respondents further mentioned that there was no anomaly in giving higher pay to the persons mentioned in the application. Those officials were drawing higher pay than the applicants as P.I. and on promotion to J.T.O. for their longer service in the feeder cadre.

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



6. We have given our anxious consideration on the matter. From the materials on record it appears that the case of the applicant was not properly looked into by the respondents. As per the own statement of the respondents the applicant was recruited and appointed as P.I. in the department as a departmental Outsider Candidates against the recruitment year 1973. The applicant was sent for training in the year 1977. There was no good reason assigned as to why he was not sent for training in 1973 though the similarly situated persons were sent for training at Guwahati itself in the year 1973-74. Those persons were given higher selection grade w.e.f. 1983. Since the other similarly situated persons were given similar benefit, we are of the opinion that the applicant is also entitled to get the benefit in 1983. Since the applicant completed the 16 years of service as P.I. as per O.T.B.P. Scheme, he is also entitled to the promotion for the post of J.T.O. on and

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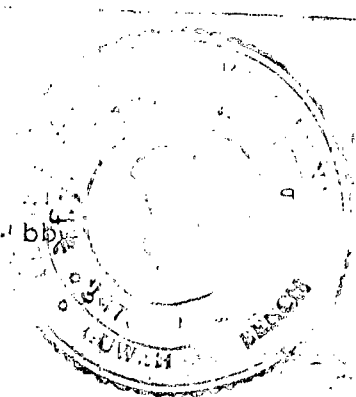
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from 1989.

In view of our aforesaid decision the applicant will also be entitled for his seniority in the P.I. from 1973 with all consequential benefits.

Subject to the observations made above, the application is allowed.

There shall, however, be no order as to costs.



Sd/ VICE CHAIRMAN  
Sd/ MEMBER (Admin)

RECEIVED  
GOVERNMENT OF INDIA

W. S. S. S.  
07/12/02

RECEIVED  
GOVERNMENT OF INDIA  
MINISTRY OF LABOUR AND INDUSTRIAL RELATIONS  
NEW DELHI

7/12/2002

The E.G.M.T. Assam Telecom Circle Ulubari,  
Gauhati, Sanibora Road, Gauhati-781007.

Through : Proper Channel.

Dated Lunglei, the 12th Feb. 2002.

Subj:- Prayer for step-up of pay and allowances along with arrears and other benefits as per original applications.

Ref :- Original application No.157 of 2001; date of order 29.01.02 by C.A.T.; order signed on 07.02.02/copy attached.

Respected Sir,

Most cordially and respectfully I beg to state the following few lines for your kind and favourable order please. That sir, In connection to my case of pay and Allowance I have had been personally meet (interview) with one then P.M.G. and five E.G.M.T.s. maintaining all office procedures. During said interview with Head of Telecom Circle regarding my pay and allowances case and Departmental promotion till I proceeded to E.A.T. it was told to me that the case is jamun and the benefit should get. Even before I proceeded to E.A.T. for the second time I meet E.G.M.T. Assam Circle at Gauhati with prior permission of D.G.M. (mttee) E.T.R. Gauhati, then E.G.M.T Assam Circle discussing my case with some officer of his office assured me that my case will be settle with in a month. But inspite of one C.A.T's order assurance from head of circle the result of jamunness of my case not settled till long time. Thus though I am obeying all the rules and office procedure yet I have been compel to approached central administrative bureau Gauhati for the second time for the same matter. That sir,

That sir, After receiving and submitted the 1st order of C.A.T. No.A.2002 1994. I have submitted all official correspondent document; that I have possess to the office of E.G.M.T. Assam Telecom Circle Gauhati through proper channel, as per order of the said office for the settlement of case. But all the E.A.T's order and E.G.M.T Assam Circle's assurance going invain.

That sir, Here I feel and I also believe that it is through one should not do oneself yet I should my self mention some of my special works that I have rendered to the Government of India specially to this Telecom Department, where proves are already there.

Firstly as an ex-war service man I got to war service medal for the communication provided in the war.

secondly I have donated blood to times to late N.G. Sitaramon

cont/..2

Directed by  
Shri  
Advocate  
11/10/02

then D.E. of Shillong Telecom Division at Shillong Civil Hospital. Who died at Shillong Civil Hospital late on a Thirdly, When Mr. Kirtonia belongs to Calcutta one S.D.E. of Kohima (Nagaland) came to Shillong 45 years back, then Mr. Kirtonia metted one serious accident on the way to Shillong G.M. office by ~~got~~ this information from outside person I went to that place and took Mr. Kirtonia went to Gauhati down town Hospital at midnight and admitted him there with my own money. Thus he was saved and also I got <sup>back</sup> the money that I have expended from Mr. S. Baruli then D.E. (Tech.) of G.M. (Nag.) <sup>ETK</sup> Shillong office.

Fortly, When I was posted as phone Inspector at Nagaland Division I have realised more than Rs 10 (Ten lakh rupees) outstanding amount of Telephone revenue from the under ground Naga militant besides my technical works (I know there was no such records of such realisation of outstanding revenue before and after me from under ground).

Now also I am being beyonced 58 <sup>years</sup> of age working in most remoted hill station and looking after repeaters station my claimings more than 2-3 km hills where most of officials refused to come to this station.

That sir, with all the above facts and genuiness and along with the second order of C.A.T's order dt 29.01.02 signed on 07-02-02 by Honb'le Mr. Justice I again praying before you to settle my case by issuing favourable order for following dues & benefit which are due to me, sir at an early date otherwise it will effect in my pension benefits.

The following dues & benefit, are submitting for your kind action please.

1) It is request to fix my pay & allowance with for increment in the initial stage of P.I. in the year 1977 according to this scale. And to pay the deference of due & down arrears up to 1983, where as per old rule it was due to get lower selection grade as P.I. There should be step up of scale then Sir, as per O.P.B.T. 1st time bound promotion for me due in 1988, which was given to me in 1993. <sup>now</sup> In 1989 scale should step up inside of 1993 ; from 1989 there should be yearly increment till I join as J.T.O. and on that basis my initial scale of J.T.O. should fixed like my contemporari P.I.S. and other equivalent order's officials; then only it will be genuin.

That sir, it is also requested to pay <sup>me</sup> the arrear of deference of due and <sup>down</sup> down. Because I have already applied for step up of my scale and initial stage of J.T.O's first pay, when I <sup>was down</sup> down, it was not <sup>down</sup> down though my scale was lower than my Junior officials.

That sir, Now I am posted as officiating SDE/ETR(UHF) Lunglei (Mizoram) since August 2001 till now I am in the same station. At present my scale is Rs 7500/- which is very lower than my contemporary official as well as to my juniors also.

That sir, It is also mentioned for your knowledge that during this long period when yearly bonus was entitle to get on the basis of pay scale. I had been paid lower amount than my colleague; when I had performed official tour I had got lower D.A. for such losses what I can do where regular requests were had not been solved at due time when it was requested.

That sir, If it would kindly be review the previous results and case of J.T.O. examination then I may get regular T.E.S. gr. B where I am performing the officiating only.

Therefore, It is most cordially requesting you to end the case this time by giving me the due benefit with and favorable order please and relift me from such punishment.

Thanking you sir.

Yours faithfully,

*Dehanta*

( S.N. HOHAKHA )  
(Off) SDE. Lunglei

UHF/Off-Station  
Mizoram.

Dated 12/02/02  
Lunglei.

and (1) Proper channel  
copy submitted at  
Hq. Mizoram ETR.

(2) Order copy attested  
(CAT)

BHARAT SANCHAR NIGAM LIMITED  
O/O THE TELECOM DISTRICT MANAGER  
NAGAON-782001.

No.E-342/CAT CASE/PAY Fixation/3 Dated at Nagaon, the 27th Mar'02.

To

Sri Sadananda Mahanta,  
SDO, UHF & M/W  
Lunglei (Mizoram).

Sub :- O.A No. 157/2001 against UOI and others.

With reference to your O.A. No. cited in which you have claimed some consequential benefits like step up of pay with some of your colleagues who were junior or equal to you but had been drawing higher salaries than you, conferment of selection grade etc.

The amount of informations have so far been furnished by you through the above O.A. No. regarding those officer (s)/ official(s) with whom your case is required to be compared are quite insufficient. You seem to have failed to furnish their present post held, places of posting, scales drawn by them etc etc. which are vividly available in the service books only of the employees concerned. These particulars are absolutely necessary to establish such claim.

Whatever verdicts the Hon'ble CAT or Hon'ble High Court of Assam, Manipur etc. may pass in your favour granting your legitimate claim, but that alone is not sufficient in summing up the benefits due to you.

Precisely, you should make such efforts to produce or arrange to produce all the service books of the concerned employees related to you in this matter so that the accounts personnels of this office can identify the actual and exact stages at which the said benefits actually accrued to prepare the required Due- Drawn Bills in r/o you.

To settle such benefits/claim you are just to assemble all the Service Books to the accounts sections. However, past is past. You are hereby requested to step-down to the grass-root level with full details and concerned S/Books so that this office may extend its all possible assistance to settle this long pending case.

*[Signature]*  
Telecom District Manager  
Nagaon Telecom District  
Nagaon-782001.

*Attested by*  
*[Signature]*  
Advocate  
11/10/02

To,

Dated, Lunglei  
The 01-05-2002

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The Telecom District Manager,  
Nagaon Telecom District  
Nagaon - 782 001

Subject : Service book to settle case of S. N. Mahanta SDE Lunglei UHF/  
M/W Station.

Ref. : Your letter No. E-342/CAT CASE/ Pay Fixation / 3 dt. at NGG the  
27/3/02.

Sir,

Most respectfully, I beg to furnish the following particulars of two, three officers to help A.O. of your office to settle my case, according to reference of your letter cited above.

1. Sir, kindly excuse me as I am sending this letter directly to you by your name to avoid delay. As I received your letter on 30/04/02.
2. That Sir, Firstly my name in your above cited letter written as "Sri Sadananda Mahanta" it is wrong, my name is "Sri Sarbananda Mahanta".
3. That Sir, as I am at Lunglei and my home is at Nagon it is not possible to furnish particulars of many offices & officials related to my case as all documents are at my home. As a P.I. I was long time these at Nagaon under T. D. M. Nagaon; I have submitted many paper to then A. O. I meet five C. G. M. T's at different time and approached CAT twice all the times I submitted proper and appropriate documents; on the basis of which CAT and C. G. M. T's never reject my justice dues. Now I should not and need not furnished again such particulars.
4. That Sir, As per your order and accurance to settle the case I am furnishing three officers means those are junior to me; in the gradation list of then P. I. & R. S. A. etc. where my name also there, all most all are example to settle my case.

Names of the junior officers : -

- i) Sri Kanak Saikia, now at under D. E. M/W Project (Jorhat) Mr Saikia was R.S.A. (of P. I. Scale) of 1976 & J. T. O. of 1997, his pay was fixed as J. T. O. at Rs. 7,300/- when my pay was fixed at Rs. 6,500/- four (4) years senior earlier. As because Mr. Saikia got L. S. G. as R.S.A., O.T.B.P. but it was not done to me.

Witnessed by  
Sham  
4/10/02

Cont. P/2.....

Dated, Lunglei

ii) Sri Banudhar bora P. I. of 1975 & J. T. O. of 1997; Mr. Bora also got L. S. G. then O. T. B. P. without request to his office in time; so his pay was fixed as J. T. O. as Rs. 7,300/- but my pay was at Rs. 6,500/- as J. T. O. before three years.

iii) Sri Nirmol Kt. Saha P. I. of 1976 & J. T. O. of 1997 his pay also higher than me. Moreover, he was sent to J. T. O. training one year earlier. Actually, when he was supposed to be send, He is at Silchar M/W station.

I was P. I. of 1973 as departmental outsider but only my name has been drop from the list of training to Gauhati. So, I was sent alone to Ahmedabad for P. I. training alone in the year 1977, then my name has been drop from L. S. G. as P. I.; lastly from O. T. B. P.; I got O. T. B. P. when I approached CAT, but other officer need not approach to CAT. In this Dept. or B. S. N. L. there is provision of preparing dropping list for training and promotion which was not done in my case. So CAT & C.G.M.T., G.M. D.G.M. & T.D.M. all are for the justice. If I go to S.C. then S.C. will order in favour of me.

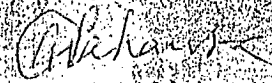
That Sir, as you could know the justice of my case so with the above example and due to the fault of the department (concerned office) now B. S. N. L. my name has been dropped in various list; so when I become P. I. at initial state my P. I. scale should be fixed with four (4) increment; then gradually L. S. G. scale at due time, then O.T.B.P. scale in due time counting the year from 1973 like contemporary P.I.S.

The C.G.M.T. Gauhati Assam circle told me, let it be any big amount it have to be pay to me as the amount will not go from any bodies pocket in front of his subordinate officer during my interview in 2000 year with due permission of D.G.M. (ETR) silpukhury Gauhati.

Sir, this time I can expect that case will be settle at your and A.O.'s initiative, definitely I will be ever gratefull to you and A.O. of your office.

Thanking you Sir,

Yours faithfully,

  
Sarbananda Mahanta  
SDE U.H.F. earlier (O/s)

Copy to : A. D.  
O/C the C.G.M.T.  
Ghy.