

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. _____
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. 3 / 02 in O.A 143/01

Applicants: Union of India & Ors

-Vs-

Respondant(s) K.K. Kumar & Ors

Advocate for the Applicant(s) B.C. Pathak, Addl. C.S.C.

Advocate for the Respondant(s) Mr. S. Sarma, Min. U.D.M

Notes of the Registry	Date	Order of the Tribunal
This review application has been filed by the counsel for the Union of India w/r 17 of the CAT (Procedure) Rules 1987 read with CAT Act w/s 22(2)(f) of 1985.	1.8.02	Heard Mr.B.C.Pathak, learned Addl.C.G.S.C. for the applicant and also Mr.S.Sarma learned counsel for the respondents. List on 29.8.02 for orders.
Level before the Honble Court for further orders.	1m 29.8.02	Member Vice-Chairman
<u>26/7/02</u> Section officer	mb	List on 13.9.2002 for orders as prayed by Mr. S.Sarma, learned counsel for the Respondents. Member Vice-Chairman

13.9.02

List on 20.9.2002 as prayed by learned counsel for the parties.


Vice-Chairman

mb

20.9.2002

put up after two weeks enabling the parties to obtain necessary instruction on the matter.

List the case again for hearing on 11.10.2002.


Vice-Chairman

bb

11.10.02

On the prayer of learned counsel for the parties case is adjourned to 22.11.02 for hearing.


Member

lm

22.11.02

Mr. B. C. Pathak, learned Addl. C.G.S.C. submits that review application is against the order passed by the Hon'ble Vice-Chairman and prays that the application is to be put up before the Bench of Hon'ble Vice-Chairman. Prayer is accepted. Put up before the Bench of Hon'ble Vice-Chairman.

Member

lm

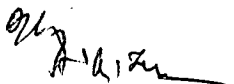
27.11.2002

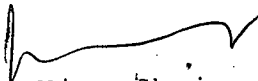
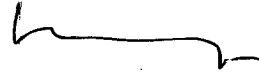
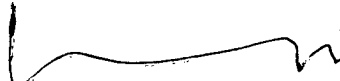


Adjourned on the prayer made by Mr. B.C. Pathak, learned Addl. C.G.S.C. and list the case for hearing on 13.12.2002.


Vice-Chairman

bb

13/12 List on 20/11/2002 to enable Mr. B.C. Pathak, Addl. C.G.S.C. to obtain necessary instructions.



Note of the Registry	Date	Order of the Tribunal
	20.1.2003	<p>Heard Mr S. Sarma, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C.. List it on 14.2.2003 to enable Mr B.C. Pathak to obtain necessary instructions.</p> <p style="text-align: right;"> Vice-Chairman</p> <p style="text-align: center;">nkm</p>
	14.2.2003	<p>Adjourned on the prayer of Mr A. Deb Roy on behalf of Mr B.C. Pathak, learned Addl. C.G.S.C. List the matter for hearing on 21.2.03.</p> <p style="text-align: right;"> Vice-Chairman</p> <p style="text-align: center;">nkm</p>
	21.2.2003	<p>Mr.B.C.Pathak, learned Addl.C.G.S.C. has prayed for adjournment of the matter to obtain further instruction on the matter.</p> <p>Prayer accepted. List the case on 4.4.2003.</p> <p style="text-align: right;"> Vice-Chairman</p> <p style="text-align: center;">bb</p>
	4.4.2003	<p>On the prayer of Mr.B.C.Pathak, Addl.C.G.S.C., the case is adjourned. List the case again on 30.5.2003 for hearing.</p> <p style="text-align: right;"> Vice-Chairman</p> <p style="text-align: center;">bb</p>
	30.5.2003	<p>Put up again on 5.6.2003 for hearing in presence of Mr. B.C. Pathak learned Addl. C.G.S.C.</p> <p style="text-align: right;"> Vice-Chairman</p> <p style="text-align: center;">mb</p>

Date of the Registry	Date	Order of the Tribunal
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5.6.2003

Put up this matter on 11.7.2003 for hearing.


Vice-Chairman

nkm

11.7.2003

Heard Mr.B.C.Pathak, learned Addl. C.G.S.C. and also Mr.S.Sarma, learned counsel appearing on behalf of the Original applicant Shri Bhupen Deka.

It seems that the dispute is finally resolved by the parties and Mr.B.C.Pathak, learned Addl.C.G.S.C. also placed before me the instructions that he received pursuant to the representation submitted by Shri Bhupen Deka dated 9.7.2003.

In this circumstances the Review petition stands dismissed on withdrawal.


Vice-Chairman

bb

15.7.2003

Copy of the order has been sent to the office for issuing the same to the H.A. for the parties.

[Handwritten initials]

26
Central Administrative Tribunal
Guwahati Bench

Filed by:-

B. C. Pathak
26/7/02

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

R.A. NO. 3 /2002
IN O.A. No. 143/2001 and
M.P. No. 145/2001

In the matter of :

An application filed under Rule 17
of the C.A.T.(procedure) Rules,
1987 read with S.22(3)(f) of the
CAT, Act, 1985.

- And -

In the matter of :

Union of India & Others.

..... Applicants/
Respondents

- Vs -

Shri Karuna Kanta Kumar & Others.

..... Opposite Party/
Applicants.

The humble application of the abovenamed
applicants/respondents ;

Most Respectfully Sheweth :

1. That the opposite party/applicants, including one
Shri Bhupen Deka, all casual labours, had filed jointly an

application vide O.A. No. 143/2001 in this Hon'ble Tribunal. This Hon'ble Tribunal admitted the said application on 11.4.2001 and ordered to maintain status quo as on that day.

The copy of the said order dated 11.4.2001 is annexed as Annexure - R1.

2. That the applicants/ respondents while making arrangement to file written statements and the records, it took some time. Meanwhile the case came up for hearing on 15.2.2002, while ~~in~~ Sr. C.G.S.C., Mr. A. Deb Roy prayed for some time to produce the records. But this Hon'ble Tribunal was not inclined to grant any time and passed the final order in the case thereby directing the respondents to examine the case of all the 11 applicants for conferment of temporary status by giving full opportunity to these applicants. This Hon'ble Tribunal also directed the respondents to grant temporary status if they had fulfilled the requirements. In disposing of the application this Hon'ble Tribunal also disposing of the ~~application in this Hon'ble Tribunal~~ of the M.P. No. 145/2001 vide order dated 15.2.02. By the said order dated 15.2.02 passed in the M.P. No. 145/2001, this Hon'ble Tribunal also directed the respondents to pay the salary due to Shri Bhupen Deka since April, 2001. This order was primarily based on the order of status quo passed on 11.4.2001.

The Copies of the final orders dated 15.2.2002 passed O.A. 143/2001 and the M.P. No. 145/2001 are annexed hereto as Annexure - R2 and R3.

3. That this applicants/respondents could not place any facts in this Hon'ble Tribunal while the application was admitted and the interim order of status quo was passed on 11.4.2001. This order was exparte. Moreover as the applicants/respondents could not file any written statements and objection in the said O.A. and the M.P., there was no proper adjudication of the matter, more particularly when prayer for time was rejected. Other than the main issues raised in the O.A., the issue of status quo and the payment of salary (should have been termed as "wages") was of vital importance in view of the fact that on the particular date 11.4.2001, said Shri Bhpen Deka was not in engagement with the applicants/respondents. In fact, said Shri Bhupen Deka was formally disengaged with effect from 11.3.2001. This order of disengagement was duly communicated to said ~~order~~ Shri Bhupen Deka vide letter No. Genl-3015/Staff/2000-2001 dated 9.2.2001. This letter was duly received by said Shri Bhupen Deka ss on 9.2.01 by putting his signature on the body of the said letter.

The copy of the letter dated 9.2.01 showing the acknowledgement from B. Deka is annexed as Annexure - R4.

4. That from the letter dated 9.2.01 it is clear and explicit that said Shri Bhupen Deka was not in engagement while the aforesaid status quo order on 11.4.2001 was passed. Accordingly, the applicants/respondents maintained the

status quo and there was no subsequent engagement also. In view of this fact, the payment of salary (wage) to Shri Bhupen Deka did not arise at all.

In this regard, the applicants/respondents also state that the payment of wages to casual labourers are made on daily rate basis and such casual labourers are not systems, Shri Bhupen Deka has asked for salaries from the month of April, 2001 onwards whereas he was not engaged after 11.3.2001. Shri Bhupen Deka, as it appears had made his claim regardless to such facts and above all by suppression of material facts. This suppression of material facts has vitiated the entire proceeding leading to mis-carriage of justice.

5. That as stated above, the applicants/respondents got no reasonable opportunity to defend their case with evidence, more particularly against the order of status quo and the issues raised in the M.P. No. 145/01. The copy of the M.P. 145/01 was not served on the applicants/respondents nor the Sr. C.G.S.C. informed them about the said M.P. in time. The applicants/respondents only came to know about the said order dated 15.2.02 only on 29.4.2002 when it was received by the Asstt. Director (Legal) on 29.4.2002.

6. That after receipt of the said orders dated 15,2.2002 on 29.4.2002, the applicants/respondents took some time to verify the matter and ultimately it was handed over the Addl. C.G.S.C. to re-examine the matter and to suggest legal remedies,

-5-

The Addl. CGSC took about 7 days time and this suggested to file a Review Application immediately in the Hon'ble Tribunal if necessary with a separate petition for condonation of delay. In accordance with the suggestion, the case was handed over to Addl. C.G.S.C. to file the Review Application. The Addl. C.G.S.C. in the meanwhile fell sick for which he has also taken some time in filing the Review Application.

7. That in view of the facts and circumstances as stated above, the applicants/respondents could not produce the clear documentary evidence as they did not get reasonable opportunity to produce such evidence to file their objection in the matter with such evidence. Therefore, it is a fit case, where this Hon'ble Tribunal would be pleased to review the order dated 15.2.2002 passed in M.P. No. 145/2001 and revise the said order in accordance with the documentary proof contrary to the claims made in the said M.P. 145/2001.

8. That the applicants/respondents respectfully submit that it is a fit case where this Hon'ble Tribunal would be pleased to review the order dated 15.2.2002 passed in M.P. 145/2001. If this Hon'ble Tribunal for any such reason do not consider the review applications, the applicants/respondents would suffer irreparable loss and injuries and it would lead to miscarriages of justice at the instance of false statements and suppression of material facts by the opposite party/ applicants.

9. That this application has been made bonafide and for the ends of justice.

In the premises aforesaid it is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall also be pleased to reverse the order dated 15.2.2002 passed in M.P. No. 145/2001 on the basis of evidence adduced by the Review application and also declare that the opposite party/ applicant No.11, Shri Bhupen Deka is not entitled to any such salary w.e.f. April, 2001, as claimed and/or pass such further or other order that Your Lordships may deem fit and proper.

Affidavit.....

A F F I D A V I T

I, Shri S C Das, presently working as Asstt. Director (Legal) in M/s. BSNL, Guwahati. being competent and duly authorised to sign this affidavit, do hereby solemnly affirm and state as follows :

1. That I am representing department and taking steps in all cases including the O.A. No. 143/01 and M.P. 145/01 and hence I am fully acquainted with the facts and circumstances of the case.

2. That the statements made in para 4 to 8 and 9 - - are true to my knowledge and belief, those made in para 1, 2 and 3 - - being matter of 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 facts.

And I sign this affidavit on this 26th day of July, 2002 at Guwahati.

Shankar Ch. Das
Deponent.

Identified by me

Advocate

Solemnly affirmed and declared before me by the deponent who is identified by Shri B.C. Pathak, Advocate, on this 26th day of July, 2002 at Guwahati.

Dilip Baruah.
Advocate

Pathak

26/7/02

S.C.No 244

12

FORM NO. 4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

Original ORDER SHEET APPLICATION NO 143 OF 2001

Applicant (s) K.K. Kumar IAS

Respondent(s) U.O.I IAS

Advocate for Applicant(s) Mr. S Sarma, Miss U.D. Das

Advocate for Respondent(s) case.

Notes of the Registry Order of the Tribunal

11.4.01

Heard learned counsel for the parties.

Application is admitted. Issue notice on the respondents. Call for records. Returnable by 4 weeks.

List on 16.5.01 for orders.

Meanwhile, status quo as on to-day shall be maintained.

SD/VICE CHAIRMAN

2+2 = 10th-5.

W.e.f.

Terms 11.3.01



Certified to be true Copy

प्रमाणित प्रतिलिपि

W.S. Sarma 25/11/2001

Section Officer (J)

সচিব (জ) (সহকারী সচিব)
Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক আয়তন
Guwahati Bench, Guwahati

গুৱাহাটী বেঞ্চ, গুৱাহাটী

Handwritten signature and date

14/3/07
Original Application No. 143 of 2001.

Date of decision : This the 15th day of February, 2002

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

Sri Karuna Kanta Kumar,
Son of Krishna Kanta Kumar,
at present working as Casual Worker,
In the office of SDOP C-II Guwahati.

All India Telecom Employees Union,
LS & Gr-D, Assam Telecom Circle,
represented by its Circle Secretary,
Sri J.N.Mishra

...Applicants

By Advocate Mr. U.K.Nair

-versus-

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication,
New Delhi.

2. The Chief General Manager
Assam Telecom Circle,
Guwahati.

3. The General Manager (Telecom),
Guwahati, Assam.

...Respondents

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

O R D E R (ORAL)

CHOWDHURY J.(V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 and is directed against the action of the respondents in not conferring the temporary status to the eleven applicants mentioned at Annexure A to the Original Application. The applicants stated that all of them have completed 240 days of continuous service in a particular year. The applicant No. 1 - Karuna Kanta Kumar claimed that he was rendering his services as casual labour since 21.11.1995 under the respondent no. 3 and was posted in the office of the SDOP C-II, Guwahati.

Applicant No.2 also worked as such in the office of the SDOP, North Guwahati since .1.7.1994. Likewise Dipak Medhi, Karim Ali, Naren Chandra Das, Ajay Singh, Mrs. Kanan Hazuwari, Mrs. Chameli Basfor, Kameswar Kalita, Kutubuddin Laskar, Bhupen Deka have worked as casual labourers in their respective offices on and from 1.1.1997, 1.1.96, 1.1.91, 16.8.96, 1.5.95, 1.6.96, 1.7.97 and 1.1.96 respectively.

2. The respondents did not file any written statement. Mr. A. Deb Roy, learned Sr. C.G.S.C. again sought for time to place the records. Assessing the available materials on record, in my view ends of justice will be met, if a direction is issued to the respondents to examine the matter afresh. Accordingly Respondents are directed to examine the case of the 11 applicants for conferment of temporary status by giving full opportunity to these applicants as well as the concerned party/parties. The competent authority is directed to place the materials in regard to the period the applicants rendered service as casual labour in their respective units. If the applicants fulfil the requirements the respondents shall take necessary steps for granting temporary status to these applicants. The respondents shall complete this process within three months from the date of receipt of a certified copy of this order. Till completion of the above exercise interim order dated 11.4.2001 shall continue.

3. With the directions made above the application is disposed of. There shall however, be no order as to costs.

50/ VICE CHAIRMAN

ALL OVER BY
12/05/2001
11/05/2001
11/05/2001

11/05/2001

uitres

18/10

15

FORM NO. 4
(See Rule 42.)

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

ORDER SHEET

APPLICATION NO. *Misc* 145 OF 2001.

Applicant (S)

in O.A. 143/2001
Kamun Kanta Kumar Das

Respondent (S)

Union of India & ors
Advocate for Applicants (s)

Advocate for Respondent (s)

Mr. S. Sarma, Min U. Das
CGSC.

10

Notes of the Registry	Date	Order of the Tribunal
	15.2.02	By order dated 11.4.201 status quo was ordered. Out of 11 applicants the applicant No.11- <u>Bhupen Deka</u> was not paid salary since April, 2001. When others were paid salary there is no justification in not releasing the salary to the applicant no.11, more so, when there was a status quo order. The respondents are directed to release the due salaries of Sri Bhupen Deka for the aforesaid period forthwith.

15.2.02

By order dated 11.4.201 status quo was ordered. Out of 11 applicants the applicant No.11- Bhupen Deka was not paid salary since April, 2001. When others were paid salary there is no justification in not releasing the salary to the applicant no.11, more so, when there was a status quo order. The respondents are directed to release the due salaries of Sri Bhupen Deka for the aforesaid period forthwith.

The Misc. Petition is allowed.

Sd/ VICE CHAIRMAN



Certified to be true Copy
প্রমাণিত কপি

WS
21/2/2002

6/11/02

Pulleys
29/1/02

21/2/2002

- 12-~~2001~~ 26/c

ve

BHARAT SANCHAR NIGAM LIMITED
(a Govt. of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM TELECOMMUNICATIONS CIRCLE
GUWAHATI-781007.

Annexure - R4

No.Genl-3015/Staff/2000-2001

Dated 09th February, 2001

To Shri Bipin Debnath
vill: Lakhopur, P.O. Helucha, Dist: Nalbari

As you are aware that as per direction given by Hon'ble CAT, Guwahati Bench, Guwahati in OA Nos. 107/98, 112/98, 114/98, 118/98, 120/98, 131/98, 135/98, 136/98, 141/98, 142/98, 145/98, 192/98, 223/98, 269/98 and 293/98, the department constituted verification committees for different SSAs/Units under the circle for conducting detailed verification/scrutiny about the no. of days of engagement year-wise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well other proof from the various units/offices and also personally interviewed such casual labourer including you in May, 2000. In our office/SSA, the committee comprised of three members namely (1) Sri A.K.Challeng, AGM (Admn), C.O., (2) Sri B.Deb, Sr. A.O.(TR), C.O. (3) Sri G.C.Das, ADTT, C.O., Guwahati.

The aforesaid committee submitted its report to the Department detailing all about their finding/proof against each casual labourer including you. The detail of such scrutiny report is enclosed and furnished herewith as in annexure for your information.

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the Scheme for conferment of TSM/Regularisation, your case could not be considered favourably. Please take notice that you have been disengaged as casual labourer with effect from 11.3.2001 as the department is bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/works. This is done in accordance with the Hon'ble Tribunals order/and also the stay/statusquo that was directed to be maintained.

11.4.2001

Head of SSA/Unit

4-10-20 24.1.2001

O/o. CGMT Assam Telecom (Genl)
Guwahati-7. O/o the C.G.M. Telecom
Guwahati-781007

Copy to : ADT (Legal)

O/o. CGMT Assam Circle

Guwahati-7. - for favour of information w.r.t. his letter no.STES-21/160/74

Red
Debnath
9/2/01

Asstt. Director Telecom (Genl)
O/o the C.G.M. Telecom
Guwahati-781007