

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____/

Misc. Petition No. _____/

Contempt Petition No. 21/03 in O.A 306/01

Review Application No. _____/



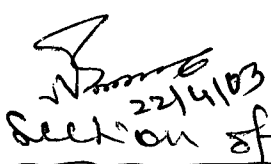
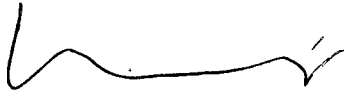
Applicant (S) B. P. Gupta

- Vs. -

Respondent (s) N. O. I 8000

Advocate for the applicant (s) M. Chanda, G. N. Chakraborty

Advocate for the respondent (s) CASE

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt Petition has been filed by the counsel for the petitioner praying for initiation of a contempt proceeding against the respondents for non-compliance of the order dated 6.8.02 passed in O.A. 306/01.</p>	<p>1.5.2003</p>	<p>Heard Mr. M. Chanda, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the contempt proceeding shall not be initiated.</p> <p>List on 2.6.2003 for orders.</p> <p> Vice-Chairman</p>
<p>Laid before the Hon'ble Court for further orders.</p>	<p>2.6.2003</p>	<p>Put up after service.</p> <p>List on 1.7.2003 for further order.</p> <p> Vice-Chairman</p>
<p> Section Officer.</p>	<p>1.7.2003</p>	<p>Service is accepted. The respondents may file reply within 4 weeks from today. List on 7.8.2003 for further order.</p> <p> Vice-Chairman</p>

Notice preferred and sent to A/s for filing the rejoinder No 182 by Regd. A/D.

D/No 936 to 937 dtd 13/5/03

8/5

(2)

No. 12 reply has been
billed.

22
30.5.03.

No. 12 reply has been
billed

22
30.6.03.

No. 12 reply has been
billed

22
6.8.03.

26.8.03

Reply filed by me

Contemner No. 2

Dis.

16.9.2003

Copy of the order
has been sent to the
Office for issuing
the order to the
Advocate for the
parties.

7.8.2003

Heard Mr. M. Chanda, learned
counsel for the applicant. None appears
for the alleged contemnors though
notices were served. List again on
29.8.2003 for reply, if any, by the
respondents.

Member

mb

Vice-Chairman

29.8.2003

Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan,
Administrative Member.

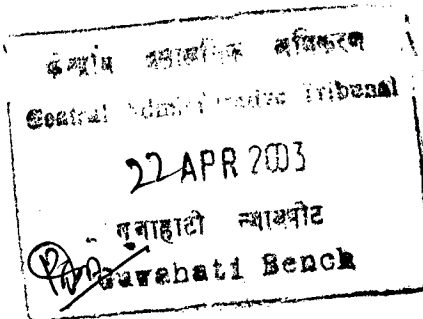
Heard Mr. G.N. Chakrabarty, learn-
ed counsel for the applicant and also
Mr. S. Sarma, learned counsel on behalf
of the respondents.

We have perused the reply filed
by the respondent No.2 indicating the
compliance of the order. It seems that
the order passed by this Bench in O.A.
306/2001 dated 6.8.2002 has been duly
complied with and the payments were made
to the applicant on 2.6.2003. In the
circumstances the contempt proceedings
stands dropped.

K.V. Prahaladan
Member

mb

Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 21 /2003

In O.A. No. 306 of 2001

In the matter of :

Sri Brijkishore Prasad Gupta &

Ors.

....Petitioners

-Versus-

Sri Ashutosh Swami & Another.

...Alleged Contemnors

-AND-

In the matter of :

An Application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a contempt proceeding against the contemnors for non-compliance of the order dated 06-08-2002 passed in O. A. No. 306/2001;

-AND-

In the matter of :

Willful disobedience and non-compliance of the Order dated 06-

3
1
Filed by the applicant
through advocate Sri
G. N. Chakravarty on
21-4-03.

08-2002 passed in O. A. No. 306/2001; directing to make payment of the arrear salary to the applicant within three months from the date of receipt of the order.

-AND-

In the matter of :

Sri Brij Kishore Prasad Gupta
Son of late Ramlal Shah
Junior Engineer, Grade I,
Tinsukia Division, N.F.Railway,
Tinsukia, Assam

...Petitioner

-Versus-

1. Sri Ashutosh Swamy
Chief Personnel Officer
N.F.Railway, Maligaon,
Guwahati.
2. Sri K.Srikumaran
Divisional Railway Manager (P)
N.F.Railway
Tinsukia, Assam.

...Alleged Contemners

The humble petitioner above named -

MOST RESPECTFULLY SHEWETHS:

1. That this petition arises out of willful disobedience and non-compliance of the Order dated 06.08.02 passed by this Hon'ble Tribunal in O. A. NO. 306/2001 filed by the petitioner wherein the alleged contemners were directed to make the payment of arrear salary to the applicant within three months from the date of receipt of the order of the Hon'ble Tribunal.
2. That tersely described, the brief facts and circumstances of the case under which the petitioner earlier filed an original application and the same was disposed of on 4.5.1998 with a direction to the respondents to promote the applicant to the post of Telecom Inspector Grade III in terms of the order dated 31.12.1990 with all consequential service benefits including his entitlement to be considered for promotion to the next higher grade. It is relevant to mention here that the aforesaid judgment and order of the Hon'ble Tribunal did not comply with by the alleged contemners. The petitioner finding no other alternative preferred a Contempt Petition before the Hon'ble Tribunal for willful violation of the order of the Hon'ble Tribunal which was registered as C.P. No. 34/1998 (O.A. 218/1996). The said C.P. was closed on the basis of the statement made by the learned counsel

for the alleged contemnors that the order dated 4.5.1998 was given effect to and the promotion of the applicant was given effect from 1.3.1993. It was mentioned in the order that he would get proforma fixation of pay and not arrear. The petitioner thereafter moved a Misc. Petition for reopening the Contempt Petition. The Hon'ble Tribunal was pleased to dismiss the said Misc. Petition by its order dated 27.4.2001 leaving it open for the applicant to move an application before the appropriate forum. The petitioner thereafter preferred the Original Application which was registered as O.A. No. 306/2001 and the same was finally disposed of on 6.8.2002 with the following directions :

8. This Bench by its earlier Judgment and order directed the respondents to promote the applicant and to provide him all the consequential benefits. The expression "Consequential benefits" is an adjective which means following as an effect, or result or outcome, resultant, consequent, following as logical conclusion or inference, logically consistent (Webster's Encyclopedic Dictionary of the English Language). As a direct result of the promotion, the applicant was to be given the benefit that accrued due to the promotion. The applicant was already promoted vide order dated 17.10.1989. By the order of the Disciplinary Authority dated 31.12.1990

the applicant was reverted to the post of WTM/Gr. I for a period of three months with non cumulative effect. On the expiry of the period he was to be restored to that position and the Tribunal accordingly ordered to that effect. If the applicant could not discharge duties and responsibilities of the post he could not be blamed for that. The applicant was made to suffer due to administrative lapses for which was not responsible. We find no justification for not allowing the arrear of emoluments to the applicant in the post of TCM/Gr.III, i.e. JE/II with effect from 1.4.1991 and the sale of JE/Tele/I with effect from 1.3.1993. The decisions of Ved Pal Singh (Supra) and Abani Mahato (Supra) of the Supreme Court relied upon by Mr Nair are decisions on facts and the facts of those cases are totally distinguishable.

9. The respondents are accordingly directed to make payment of the arrear to the applicant within three months from the date of receipt of the order.

10. The application is accordingly allowed. There shall, however, be no order as to costs."

A copy of the order dated 06.08.02 passed by this Hon'ble Tribunal in O. A. No. 306/2001 is annexed herewith as Annexure-1.

3. That the petitioner thereafter submitted one representation to the alleged contemner No. 2 on 28.11.2002 enclosing therewith a copy of the judgment and order dated 6.8.2002 in O.A. No. 306/2001 praying inter alia for implementation of the said order of the Hon'ble Tribunal but the petitioner neither received any reply nor the said alleged contemnors have taken any action for implementation of the same.

A copy of the representation dated 28.11.2002 is annexed as Annexure-II.

4. That in spite of the direction of this Tribunal passed in O. A. No. 306/2001 as stated above, the alleged contemnors did not take any action whatsoever to make the payment of the arrear salary.
5. That the petitioner begs to state that the alleged contemnors deliberately and willfully did not take any initiative for implementation of the order of the Hon'ble Tribunal passed in O.A. No. 306/2001 on 6.8.2002 which amount to contempt of court and therefore, Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemnors for non-implementation of the Hon'ble Tribunal's order and further be pleased to impose punishment on the alleged contemnors for willful non compliance of the order dated 6.8.2002 in O.A. No. 306/2001 in accordance with law.

6. That the above action of the Contemners amount to willful disobedience to the Hon'ble Tribunal's direction and the same has been committed deliberately and intentionally. The contemners are still acting arbitrarily and capriciously in their own design and this has resulted in substantial interference with the due course of justice. Hence, this petition for appropriate order under the law.
8. That it is submitted that the contemnors willfully did not take any action to comply the order dated 6.08.02 passed by the Hon'ble Tribunal in O. A. No. 306/2001 and have deliberately defied the order of this Hon'ble Tribunal which amounts to contempt of Court. Therefore, they are liable to be proceeded against and punished according to law.
9. That it is a fit case for the Hon'ble Tribunal for initiation of contempt proceeding for deliberate non-compliance of the order dated 6.08.02 passed by the Hon'ble Tribunal in O. A. No. 306/2001.
10. That this petition is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to admit this petition and issue notice on the contemners to show cause as to why a contempt proceeding should not be drawn up against

them and to show cause further as to why they should not be punished for willful disobedience and non-compliance of the order dated 06.08.02 passed in O. A. No. 306/2001;

-and-

cause or causes being shown and upon hearing the parties be pleased to punish the contemners in accordance with law and be further pleased to pass any such other order or orders as deemed fit and proper by the Hon'ble Tribunal.

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

AFFIDAVIT

I, Sri Brij Kishore Prasad Gupta, Son of Late Ram Lal Shah, working as Junior Engineer Grade I, Tinsukia Division, N.F. Railway, Tinsukia, District Tinsukia (Assam), one of the petitioners in the contempt Petition, do hereby solemnly declare as follows :-

1. That I am one of the petitioners in the above contempt petition and as such well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in paragraphs 1-10 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, in the matter of non-compliance of the Hon'ble Tribunal's order dated 06.08.02 passed in O. A. No. 306/2001.

Identified by

G. N. Chakravarty
Advocate

Brij Kishore Prasad Gupta

The Deponent above named solemnly declare before me who is identified by Sri G. N. Chakravarty Advocate.

Surajit Choudhury
Advocate.

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemners for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 06.08.02 passed in O. A. No. 306/2001.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.306 of 2001

Memo No. 2277

Date of decision: This the 6th day of August 2002

26-8-02

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

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

Shri Brij Kishore Prasad Gupta,
Wireless Telecom Maintainer/1/TSK,
N.F. Railway,
Tinsukia, Assam.

.....Applicant

By Advocates Mr M. Chanda, Mrs N.D. Goswami and
Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the
General Manager,
N.F. Railway,
Maligaon, Guwahati.
2. The General Manager (P),
N.F. Railway,
Maligaon, Guwahati.
3. The Chief Signal & Telecommunication Engineer,
N.F. Railway,
Maligaon, Guwahati.
4. The Chief Personnel Officer,
N.F. Railway,
Maligaon, Guwahati.
5. The Divisional Railway Manager (P),
N.F. Railway,
Tinsukia, Assam.
6. The Divisional Signal Telecommunication Service,
N.F. Railway,
Tinsukia.



....., Respondents

By Advocates Mr J.L. Sarkar, Mr S. Sarma and
Mr U.K. Nair.

.....

*Attended
J.L. Sarkar
Advocate*

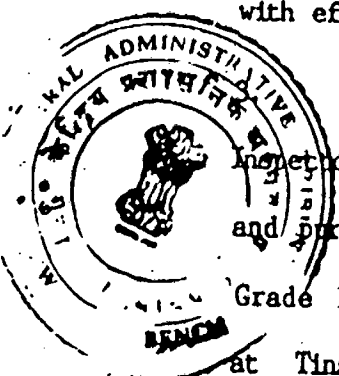
O R D E R

CHOWDHURY. J. (V.C.)

The application under Section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the action of the respondents in not providing the consequential benefits in terms of the Judgment and Order passed by the Tribunal on 4.5.1998 in O.A.No.218 of 1996.

2. Brief facts for the purpose of adjudication are as follows:

The applicant in the aforementioned O.A. sought for a direction from this Tribunal for promoting the applicant to the post of Telecom Inspector Grade III in terms of the order dated 31.12.1990 with effect from 1.4.1991 and all the consequential benefits.



The applicant was earlier promoted to the post of Telecom Inspector Grade III from the post of Wireless Telecom Maintainer and pursuant to the said order he joined the post of Telecom Inspector Grade III at Mariani, but continued to occupy the Railway Quarter at Tinsukia. A disciplinary proceeding was initiated against the applicant vide Memorandum dated 25.9.1990. By order dated 31.12.1990 the applicant was reverted to the post of Wireless Telecom Maintainer in the scale of pay of Rs.1320-2040 for a period of three months with non-cumulative effect. Since the applicant was not promoted to the post of Telecom Inspector Grade III, i.e. the post from which he was reverted, after expiry of the period of three months, the applicant moved the authority and failing to get redressal of his grievances he moved the Tribunal by way of the aforementioned O.A. By Judgment and Order dated 4.5.1998 the Tribunal disposed of the said O.A. with the following observation:

"On hearing the learned counsel for the parties it is now to be seen whether the applicant was entitled to get his original post of promotion after the expiry of the period mentioned in the Annexure XI order dated

31.12.1990.....

31.12.1990. Annexure XI order is very clear that the applicant was reverted to the post of WTM for a period of three months with non cumulative effect. Therefore, in all fairness the authority ought to have promoted the applicant immediately after 31.3.1991. The denial of such promotion in our opinion is unreasonable and arbitrary.

In view of the above we dispose of this application with direction to the respondents to promote the applicant to the post of Telecom Inspector Grade III in terms of the Annexure XI order dated 31.12.1990, i.e. from 1.4.1991 and he shall get all the consequential benefits including his entitlement to be considered for promotion to the next higher grade."

The Judgment and Order of the Tribunal was not given effect to by the respondent authority. The applicant moved a Contempt Petition which was registered and numbered as C.P.No.34 of 1998 for noncompliance of the direction issued by the Tribunal. By order dated 23.3.1999 the C.P.No.34/1998 was closed on the basis of the statement made by the learned counsel for the alleged contemnors that the order of the Tribunal dated 4.5.1998 in O.A.No.218/1996 was given effect to. Even so by order dated 29.2.1999 the applicant was restored as TCM/Gr.III, i.e. JE/II in the scale of pay of Rs.5000-8000 and posted as JE/II/TSK. By another order dated 18.3.1999 the applicant was promoted as JE/Tele/I in the scale of pay of Rs.5500-9000 and posted at Tinsukia. The benefit of the said promotion was given with effect from 1.3.1993. In the order it was also mentioned that he would get proforma fixation of pay and not arrear. The applicant thereafter moved a Misc. Petition for reopening the Contempt Petition. The Tribunal by order dated 27.4.2001 dismissed the Misc. Petition leaving it open for the applicant to move an appropriate application before the Tribunal. Hence this application praying for the following.....

following directions:

That the respondents be directed to grant the arrear pay for promotion posts, post wise w.e.f. 01.04.91 to the applicant for his promotions given on 01.04.91 and 01.03.93 on different scales of pay till the date of actual restoration order passed in favour of the petitioner.

That the respondents be directed to grant his further promotion to the scale of Rs.6500-10,000/- w.e.f. 3.7.98 i.e. the date from which his junior Shri U.K. Biswas was promoted to the said post and also to pay arrears etc incidental to the said promotion.

That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to arrear salary with effect from 1.4.1991 to till the actual date of restoration of the applicant to the promotional post of TCI Grade III in the pay scale of Rs.5000-8000 w.e.f. 1.3.1993 from the date of promotion of immediate junior of the applicant.



The respondents contested the case and submitted their written statement. In the written statement the respondents stated that the applicant was not entitled for arrear salary on the face of Rule 228 of the Indian Railway Establishment Manual Volume I, 1989. The applicant did not shoulder the duties/responsibilities of the higher grade post. He was given the benefit of proforma fixation, increment benefits, seniority etc. The respondents stated that in terms of the Judgment and Order of the Tribunal dated 4.5.1998 in O.A.No.218/1996 the applicant was given all the benefits. It was stated that he was given the monetary benefit from the date he had joined the duty but not paid arrears as he did not shoulder higher responsibility of higher grade. It was also stated that there was no specific direction in the Judgment dated 4.5.1998 to pay arrears to the applicant.

In reply to the claim of the applicant of further promotion as SE/Tele in the scale of pay of Rs.6500-10500, at least with effect from 3.7.1998 when his junior Shri U.K. Biswas was promoted, the respondent authority stated that the applicant was called for the written examination for selection of the post on 5.5.2000, but the applicant could not come out successful. Therefore, the question of depriving the applicant of his promotion to the post of SE/Tele was not justified.

5. We have heard the learned counsel for the parties at length. Mr M. Chanda, learned counsel for the applicant, stated and contended that the respondent authority acted illegally and without jurisdiction in refusing to provide the applicant the monetary benefit on the purported plea of Rule 228 of the IREM. The learned counsel contended that the aforementioned provision was held to be ultra vires by the Ernakulam Bench of the Central Administrative Tribunal in the case of P. Thyagarajan and others Vs. Union of India and others reported in (1992) 19 ATC 839, M. Balakrishnan Nair Vs. Divisional Personnel Officer, Southern Railway and others, reported in (1995) 29 ATC 32 and D.L. Deshpande Vs. The Divisional Railway Manager and others, reported in 1998 (1) SLJ (CAT) 88. The learned counsel also referred to the following decisions:

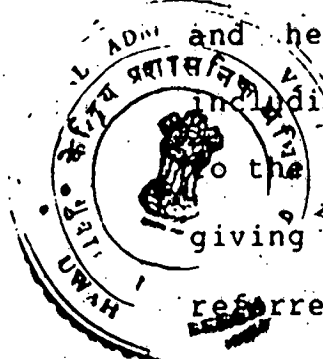
1. Shri Rai Singh Vs. Union of India and others, reported in 1990 (1) SLJ (CAT) 637.
2. Ramesh Chander and another Vs. R.S. Gahlawat and others. reported in (1993) 24 ATC 759.

3. Vasant Rao Roman Vs. Union of India Through the Central Railway, Bombay and others, reported in 1993 Supp (2) SCC 324.

4. Vasant Rao Raman Vs. Union of India, reported in 1993 SCC (L&S) 590.

5. Ram Niwas Vs. Union of India and others, reported in 1997 (2) SLJ (CAT) 324.

6. Strenuously opposing the contention of the applicant, Mr U.K. Nair, learned counsel for the respondents, referred to the judgment of the Tribunal dated 4.5.1998 in O.A.No.218/1996 and submitted that the Tribunal ordered the respondents to promote the applicant to the post of Telecom Inspector Grade III from 1.4.1991



and he was to be given all consequential benefits including his entitlement to be considered for promotion to the next higher grade. The Tribunal did not direct for giving him the arrear salary. The learned counsel also referred to Rule 1302 of the Indian Railway Establishment Code Volume II corresponding to F.R.73. Mr Nair submitted that in deference to the Judgment and Order of the Tribunal the applicant was given due promotion with retrospective effect. At the same time it took all factors into consideration and taking all the relevant consideration including public interest, the authority, after objective assessment decided to provide the applicant with the proforma fixation. There was no illegality on the part of the respondents, contended Mr Nair. The learned counsel, in support of his contention also referred to the decisions of the Supreme Court in the State of U.P. and another Vs. Ved Pal Singh and another, reported in (1997) 3 SCC 483, Abani Mahato Vs. Kanchan K.

Sinha.....

Sinha and others, reported in (2000) 9 SCC 527 and Vinod Bhandi Vs. State of Bihar and others, reported in 2000 SCC (L & S) 417.

7. We have given our anxious consideration in the matter. On the face of the decision of the Ernakulam Bench in P. Thyagarajan's case (Supra) and M. Balakrishnan's case (Supra) followed by the Bangalore Bench of the Tribunal in D.L. Deshpande (Supra), it would not be permissible on the part of the respondents to act upon Para 228 of IREM. Para 228 of the IREM is reproduced below:

"228. Erroneous Promotions- (i) Sometimes due to administrative errors, staff are over-looked for promotion to higher grades could either be on account of wrong assignment of relative seniority of the eligible staff of full facts not being placed before the competent authority at the time of ordering promotion or some other reason. Broadly, loss of seniority due to administrative errors can be of two types-
(i) Where a person has not been promoted at all because of administrative error, and
(ii) Where a person has been promoted but not on the date from which he would have been promoted but for the administrative error.

Each such case should be dealt with on its merits. The staff who have lost promotion on account of administrative error should on promotion be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion. Pay in the higher grade on promotion may be fixed proforma at the proper time. The enhanced pay may be allowed from the date of actual promotion. No arrears on this account shall be payable as he did not actually shoulder the duties and responsibilities of the higher posts."

In P. Thyagarajan's case followed by the later decision, Ernakulam Bench of the Tribunal struck down the following sentence from para 228 of the IREM:

"No arrear on this account shall be payable as he did not actually shoulder the duties and responsibilities of the higher post."

8. This Bench by its earlier Judgment and Order directed the respondents to promote the applicant and to provide him all the consequential benefits. The expression "consequential benefits" is an adjective which means following as an effect, or result or outcome, resultant, consequent, following as logical conclusion or inference, logically consistent (Webster's Encyclopedic Dictionary of the English Language). As a direct result of the promotion, the applicant was to be given the benefit that accrued due to the promotion. The applicant was already promoted vide order dated 17.10.1989. By the order of the Disciplinary Authority dated 31.12.1990 the applicant was reverted to the post of WTM/Gr. I for a period of three months with non-cumulative effect. On the expiry of the period he was to be restored to that position and the Tribunal accordingly ordered to that effect. If the applicant could not discharge duties and responsibilities of the post he could not be blamed for that. The applicant was made to suffer due to administrative lapses for which was not responsible. We find no justification for not allowing the arrear of emoluments to the applicant in the post of TCM/Gr.III, i.e. JE/II with effect from 1.4.1991 and the scale of JE/Tele/I with effect from 1.3.1993. The decisions of Ved Pal Singh (Supra) and Abani Mahato (Supra) of the Supreme Court relied upon by Mr Nair are decisions on facts and the facts of those cases are totally distinguishable.

9. The respondents are accordingly directed to make payment of the arrear to the applicant within three months from the date of receipt of the order.



10. The application is accordingly allowed. There shall, however, be no order as to costs.



Sd/ VICE CHAIRMAN
Sd/ MEMBER (Adm)

TRUE COPY
प्रतिनिधि
23/8/02
Section Officer (A)
National Administrative Trib.
उपनिर्वाह प्रशासनिक अधिकारी
National Administrative Trib.
उपनिर्वाह प्रशासनिक अधिकारी
उपनिर्वाह प्रशासनिक अधिकारी
उपनिर्वाह प्रशासनिक अधिकारी

DM(P) Tinsukia
N.F. Railway:

Sub: Submission of CMT's decision order sheet
Ref: Original Application No. 206 of 2001
Memorandum No. 2277 dated 26-08-2002

Sir,

Respectfully, I beg to submit the above said CMT's decision order sheet for your further necessary action please.

DA/1x5 = 5 sheet.

Dated, Tinsukia,
the 28th Nov. 2002

Yours faithfully,
B.K. Prasad / Gupta
(B.K.P. GUPTA)
JE/I/TELE/PRA/TSK

Copy to:- (1) DSTE/TSK - for kind information please.

दिनांक.....को प्राप्त किया
Received on ... 28.11.02
न.रे.प्र. (कार्य) का न.प्रतिप
DM(P)'s Office
पू. ए. रेड, तिनसुकिया
N.F. Ry. / Tinsukia

Yours faithfully,
B.K. Prasad / Gupta
(B.K.P. GUPTA)
JE/I/TELE/PRA/TSK

o/c

Attested
Jm.
Advocate

23
28/11/03

✓ To,

The Divisional Railway Manager (P),
N. F. Railway,
Tinsukia (Assam)

Sub : To remind and draw your kind attention towards the order
dated 28.08.2002 in connection with Original application
No.306 of 2001, Memo No.11 " passed
by Hon'ble CAT, Guwahati.

Ref : My representation dated 28.11.2002.

Respected Sir,

May I have the pleasure to draw your kind attention to get your remind that inspite of expiry of the prescribed period for implementation of the above order of the Hon'ble CAT, Guwahati, I have been lying in the land of air as still the order is not complied which made me motivated to place the reminder before you to consider the matter as urgent as "the voice of Judicial heaven".

I have no alternative except to place the contempt petition before the appropriate Court for getting legal remedy when violation of the above order has already been expired.

With regards it is therefore requested you to be enough kind to take the matter under consideration as urgent as possible for which I shall ever be obliged

Thanking you.

Yours faithfully,

B. K. Prasad Gupta
(B. K. Prasad Gupta)
JE /Tele: FSK

Copy to :-

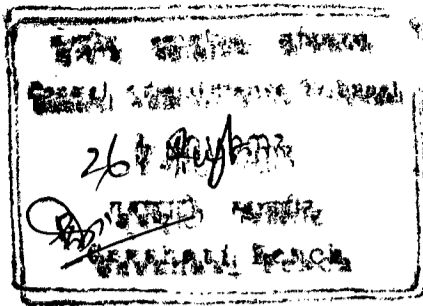
1. Divisional Railway Manager,
N. F. Railway, Tinsukia
2. Divisional Signal Telecom Engineer,
N. F. Railway, Tinsukia

for kind perusal please.

B. K. Prasad Gupta
(B. K. Prasad Gupta)
JE /Tele: FSK

Remind
28/11/03

Received
for
advocate



Filed by 24
the contemner No.2
through
Siddhartha Sarmah
Advocate
Guwahati

-.mt0

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C.P. No. 21/2003
In O.A.No. 306/2001

Sri B.K.P. Gupta

-VS-

Shri K Sri Kumaran

Sri K. Kumaran

IN THE MATTER OF

Reply filed by the contemner No.2 in
the above noted C.P.

1. That the contemner No.2, Sri K.Sri Kumaran has received a copy of CP and has gone through the same. Save and except the statement which are specifically admitted herein below, rests may be treated as total denial. The statements which are not born on record are also denied and the petitioner is put to the strictest proof thereof.

2. That with regard to the statement made in para-1 of the C.P. the answering alleged contemnors beg to state that the judgment passed by this Hon'ble Central Administrative Tribunal has been received by the office on 25.11.2002 under GM(P)/MLG's L/No.E/170/LG/NS/48/2001 dated 16/17.10.02. After observing official formalities

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preparation of the arrear bill started. Since the arrear was involved from the year 1991 (more than 12 year old), time was taken (exhausted for searching of old records. Since it was money matter, after consulting all records, the arrear bill amounting to Rs. 66236/- was prepared in favour of Sri B.K.P. Gupta, JE-1(Tele)/TSK and paid to him on 2.6.2003 in presence of his supervisor SE(Tele)/Tinsukia.

Sickermann

3. That with regard to the statement made in para 2,3,4 & 5 of the C.P. the alleged contemner No. 2 begs to reiterate and reaffirm the statement made in para.2.

4. That with regard to the statement made in para 6 of the C.P. the alleged contemner No.2 begs to state that there is no wilfull disobedience adopted by the administration. After getting the Hon'ble Judgment of the Central Administrative Tribunal, Guwahati Bench on 25.11.2002, clarification was asked from HQ/MLG vide DRM(P)/TSK's L/NO/E/Court case/B.K.PG/2001 dated 19.12.2002 clarification received from Head Quarter on 24.3.2003 and immediate action started for preparation of arrear bill.

5. That with regard to the statement made in para 8, 9 and 10 of the C.P. the alleged contemner No.2 while reiterating and reaffirming the statement made above begs to state that the payment could not be made within target that due to administrative procedures and no willfull violation has been made by the alleged contemnners. The alleged contemner have got highest regard to the directives passed by this Hon'ble Tribunal and (he never attempted nor showed

Free to go 11

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AFFIDAVIT

I Shri K. SREE KUMARAN, son
of Late M.P. Gundannaiah aged about 57 years,
R/o Maligaon, do hereby solemnly affirm and state as
follows ;

1. That I am the alleged contemner no... in the
aforesaid Contempt Petition and as such fully acquainted
with the facts and circumstances of the case and hence
competent to swear this affidavit.

2. That the statements made in this affidavit and in
the accompanying petition in paragraphs 1, 3, 4, 5
are true to my knowledge and those made in paragraphs 2
are matters records which I believed to be true and
the rests are my humble submission before the Hon'ble
Tribunal and I have not suppressed any material facts of the
case.

And I sign this affidavit on this the 25th day
of August, 2003 at Guwahati.

Identified by:

Siddhartha Saarma
Advocate.

K. Sree Kumaran
Deponent.

Solemnly affirm and
declared by the deponent, who
is identified by Mr Siddhartha Saarma
Advocate on this the 25th day of
August 2003.

Usha Das
Advocate