

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: _____

Misc Petition No: _____

Contempt Petition No: 34/03 in O.A. 163/2000

Review Application No: _____

Applicants: - Karuna Kanta Kumar

Respondants: - Union of India & Ors.

Advocate for the Applicants: - M. Chanda, G.N. Chakraborty

Advocate for the Respondants: - C & S.C.

Notes of the Registry	Date	Order of the Tribunal
This Contempt Petition has been filed by the petitioner praying for initiation of a Contempt proceeding against the alleged Contemners for non-compliance of the order dated 06.11.02 passed by this Hon'ble Tribunal in O.A. 163/2001	14.7.2003	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.D. Dayal, Member (A). List again on 18.8.2003 for orders.
Laid before the Hon'ble Court for further orders.	18.8.2003	Member Vice-Chairman List the case on 27.8.2003 again for order.
Section Officer	27.8.2003	Issue notice to show cause as to why the Contempt proceeding shall not be initiated against the alleged contemners. List on 23.9.03 for orders.
An application praying for submission of additional documents by the applicant.		Member Vice-Chairman

Memo No. 1984 dt. 19/10/03
17/10/03

227 2

19/9/03

23.9.2003


Put up after service.

List on 20.10.2003.

Notice is prepared and
sent to Despatch
Section for issuing
to the contemners by
hand.

N. S. S.
19/9/03


Member


Vice-Chairman

bb

20.10.2003

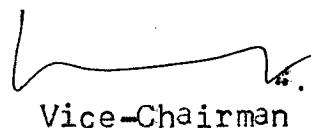
List the case on 30.10.2003.


Vice-Chairman

bb

30.10.2003

Put up again on 19.11.2003 for
further orders.


Vice-Chairman

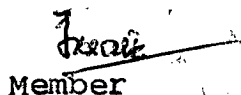
mb

19.11.2003 present : The Hon'ble Smt. Lakshmi
Swaminathan, Vice-Chairman
The Hon'ble Shri S.K.Naik
Administrative Member.

Mr.G.N.Chakraborty, learned coun-
sel for the applicant/petitioner.

Mr.B.C.Pathak, learned Addl.C.G.S.
C. for the alleged contemners.

List the case on 20.11.2003 for
orders.


Member


Vice-Chairman

bb

8005.8.81

bro

dd

Office Note	Date	Tribunal's Order
-------------	------	------------------

20.11.2093

Present: Hon'ble Smt Lakshmi Swaminathan, Vice-Chairman
Hon'ble Shri S.K. Naik, Administrative Member.

Heard the learned counsel for the parties. Orders passed separately.

[Signature]
Member

[Signature]
Vice-Chairman

nkm

8.12.03

Copy of the order has been sent to the office for issuing the order to the applicant as well as to the Addl. C.G.S.C. for the Record.
K

[Signature]
12/12/03

Tribunal's Order

Office Note	Date	Tribunal's Order

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No.34 of 2003
(In O.A.163 of 2001)

Date of order : This the 20th day of November 2003

The Hon'ble Smt Lakshmi Swaminathan, Vice-Chairman

The Hon'ble Shri S.K. Naik, Administrative Member

Shri Karuna Kanta Kumar
S/o Krishna Kanta Kumar
Village Belkona, P.O. Bihdia
District- Kamrup, Assam.

...Petitioner

By Advocates Shri M. Chanda and
Shri G.N. Chakraborty.

- versus -

1. Shri V.K. Sinha,
Chief General Manager
Bharat Sanchar Nigam Limited
Assam Circle, Bora Service
Guwahati.

2. Shri K.K. Das,
Divisional Engineer (Admn.),
Office of the General Manager,
Telecom,
Kamrup Telecom District,
Guwahati.

...alleged Contemnors

By Advocate Shri B.C. Pathak, Addl. C.G.S.C.

.....

O R D E R (ORAL)

SMT LAKSHMI SWAMINATHAN (V.C.)

Shri M. Chanda, learned counsel for contempt petitioner fairly submits that necessary steps are being taken by the respondents for the implementation of the Tribunal's order dated 6.11.2002 passed in O.A.163/2001. Learned Addl. C.G.S.C. for alleged contemnors/respondents 2 and 4 in O.A.163/2001 has also submitted that an offer of appointment as regular Mazdoor has since been made to the petitioner. In the circumstances, Shri M. Chanda

submits that he no longer wants to pursue the Contempt Petition.

2. C.P. is accordingly dismissed. Notices to the alleged contemnors are discharged. File to be consigned to record room.

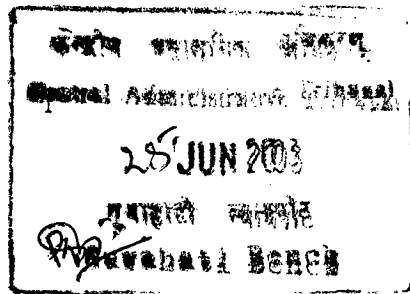
S. K. Naik

(S. K. NAIK)
ADMINISTRATIVE MEMBER

Lakshmi Swaminathan

(LAKSHMI SWAMINATHAN)
VICE-CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Filed by the Petitioner
Through:-
Subrata Nath
Advocate
on 16/06/03.

Contempt Petition No. 34 /2002

In O. A. No. 163 of 2000

In the matter of :

Sri Karuna Kanta Kumar

....Petitioner

-Versus-

Union of India & Ors.

..... 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 alleged contemnors for non-compliance of the order dated 06-11-2002 passed in O. A. No. 163/2001;

-AND-

In the matter of :

Willful disobedience and non-compliance of the Order dated 06.11.02 passed by this Hon'ble Tribunal in O. A. No. 163/2001 directing to constitute a

responsible committee for taking appropriate steps to consider the case of the applicant for grant of temporary status as per the scheme within a period of four months from the date of receipt of the judgment and order referred to above.

-AND-

In the matter of :

Sri Karuna Kanta Kumar,
Son of Krishna Kanta Kumar,
Village Belkona, P.O. Bihdia
District- Kamrup
Assam

...Petitioner

-Versus-

1. Sri V.K. SINHA
Chief General Manager,
Bharat Sanchar Nigam Limited
Assam Circle, Bora Service
Guwahati-781007
2. Sri K.K. DAS
The Divisional Engineer
(Amdn)., Office of the General
Manager, Telecom Kamrup
Telecom District
Guwahati-781007

...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 06.11.02 passed by this Hon'ble Tribunal in O. A. NO. 163/2001 filed by the petitioner wherein the alleged contemners were directed to examine the case of the applicant afresh in the light of the observations made in O.A. Nos. 289/2001, 364/2001, 366/2001, 372/2001, 160/2002 which were disposed of on 3.9.2002. The alleged contemners were also directed to complete the aforesaid exercise within a period of four months from the date of receipt of the order dated 6.11.2002.

Copy of the judgment and order dated 6.11.2002 and 3.9.2002 is annexed as **Annexure-I series.**

2. That the petitioner further begs to state that immediately after receipt of the judgment and order dated 6.11.2002, submitted the same to the alleged contemner No.1 on 9.12.2002 praying inter alia for implementation of the said order of the Hon'ble Tribunal but the said alleged contemners neither gave any reply nor have taken any action.

Copy of the representation dated 9.12.2002 is annexed as **Annexure-II.**

3. That the petitioner begs to state that the alleged contemners deliberately and willfully did not take any initiative for implementation of the order dated 6.11.2002 passed in O.A. No. 163/2001 in total disregard to the order of the Hon'ble Tribunal, as such it is a fit case for initiation of a contempt proceeding against the alleged contemners and therefore the Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemners and further be pleased to impose punishment upon the alleged contemners in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper in the facts and circumstances stated above.
5. That it is a fit case for the Hon'ble Tribunal for initiation of Contempt proceeding against the alleged contemners for deliberate non-compliance and willful disregard to the Hon'ble Tribunal's order dated 6.11.2002 passed in O.A. 163.2001.
6. That this petition is made bonafide and for the ends of the justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemners for wilful non-compliance of the order dated

06.11.2002 passed in O.A. No. 163/2001 and further be pleased to impose punishment upon the alleged contemners in accordance with law and further be pleased to pass any such other order or orders as deem 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, Shri Karuna Kanta Kumar, Son of Krishna Kanta Kumar, resident of village Belkona, P.O. Bindia, District, Kamrup, Assam., do hereby solemnly declare as follows :-

1. That I am the petitioner 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 1-5 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 06.11.2002 passed in O.A. No. 163/2001.

And I sign this Affidavit on this the 14th day of June, 2003.

Identified by

Subrata Nath

Advocate

Sri Karuna Kt. Kumar
- Deponent.

Solemnly affirm and declare
by the deponent above named
who is identified by
Advocate, Subrata Nath.

Subrata Nath
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 06.11.2002 passed in O. A. No. 163/2001 and praying for impose of punishment for willful disobedience and deliberate non-compliance of the CAT, Guwahati Bench's order passed on 06.11.2002 in O.A. No. 163/2001.

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

ORDER SHEET

Original APPLICATION NO. 163.....OF 2001.

Applicant (s) K.K. Kumar

Respondent (s) D.O.I. Govt

Advocate for Applicants (s) M. Chand. Smt. N.D. Sarma, G.K. Chakraborty

Advocate for Respondent (s) Calt

Notes of the Registry | Date | Order of the Tribunal

6.11.2002

The issue in this application relates to conferment of temporary status.

We have heard Mr S. Sarma, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. It was pointed out by Mr B.C. Pathak that this case is squarely covered by the decision of the Tribunal in a series of cases, namely O.A.Nos.289/2001, 364/2001, 366/2001, 372/2001, 403/2001, 109/2002 and 160/2002 disposed of on 3.9.2002.

This application is also disposed of in terms of the observations made in the aforementioned O.A.s. The respondents are accordingly directed to examine the case afresh in the light of the observations made in the aforementioned O.A.s. The respondents



Accepted
Sd/-
Advocate
16/11

6.11.2002

are directed to complete the above exercises as expeditiously as possible in terms of the direction made there. Till completion of the aforesaid exercise the interim order dated 30.4.2001 shall continue.



Sd/VICE CHAIRMAN

Sd/ MEMBER (Adm)

Memo No.

STO.

Copy for information and necessary action
to:

1) Shri Karuna Kanta Kumar, s/o
Krishna Kanta Kumar, Vill- Belkora,
P.O. Bihdia, Dist. Kamrup, Assam.

2) Mr. B. C. Pathak, Add. G.S.C., C.A.T.,
Guwahati Bench.

Section Officer (Jud.)
21/11/02
tes

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 289/2001, 364/2001,
366/2001, 372/2001, 403/2001, 109/2002 and 160/2002.

Date of Order : This the 3rd Day of September, 2002.

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

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

O.A. 289 of 2001

1. Sri Dondi Ram Gayan,
2. Sri Gobin Nath,
3. Sri Joy Gopal Das,
4. Sri Kandeswar Konwar.
5. Md Abdul Gafar Choudhury,
6. Sri Thanu Ram Jha,
7. Md. Abul Kalam and
8. Sri Anup Bora

By Advocate Sri S.Sarma.

. . . Applicants

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 364 of 2001

Sri Deo Kumar Rai

. . . Applicant

By Advocate Sri S.Sarma.

- Versus -

Union of India & Ors.

. . . Respondents.

By Sri B.C.Pathak, Addl.C.G.S.C.

O.A. 366 of 2001

Sri Jun Das,

. . . Applicant

By Advocate Sri S.Sarma.

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 372 of 2001.

Sri Khitish Deb Nath

. . . Applicant

By Advocate Sri S.Sarma

- Versus -

Union of India & Ors.

. . . Respondents.

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

*Accepted
Sd/-
Advocate
(14/9)*

- 2 -

11-

17

O.A. 403 of 2001

1. Md Nurmahammad Ali,
2. Md Sahabuddin Ahmed,
3. Md Alamid Choudhury,
4. Md Harimurraman Ali,
5. Sri Benudhar Das and
6. Md. Tafik Ali

. . . Applicants

By Advocate Sri B.Malakar

- Versus -

Union of India & Ors.

. . . Respondents.

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

O.A. 109 of 2002

Sri Dilip Kumar Tante

. . . Applicant

By Advocate Sri N.Borah.

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 160 of 2002

1. Th. Subendra Singh

2. All India Telecom Employees Union
Line Staff and Group-D,
Manipur Division, Imphal
represented by Divisional Secretary,
Sri M.Kulla Singh

. . . Applicants.

By Advocate Sri S.Sarma.

- Versus -

Union of India & Ors.

. . . Respondents.

By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

The issue involved in these cases pertains to conferment of temporary status in the light of the scheme prepared by the Telecom Department pursuant to the decision of the Supreme Court in Ram Gopal and others vs. Union of India and others dated 17.4.90 in Writ Petition(C) No. 1280 of 1989. Keeping in mind the plight of the casual

contd..3

18

labourers the Supreme Court in the above mentioned case directed the authority to prepare a scheme on rational basis for absorbing as far as possible casual labourers those who continuously worked for more than one year in the telecom department. The department of Telecom also followed the suit and prepared a scheme of conferment of temporary status on casual labourers who were employed and have rendered continuous service for more than one year in the telecom department. Accordingly the scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" was prepared. By order dated 1.9.99 the Government of India, Department of Telecommunications mentioned about its approval on grant of temporary status to the casual labourers who were eligible as on 31.3.97. By the said communication it was clarified that the grant of temporary status to the casual labourers order dated 12.2.99 would be affected with effect from 1.4.97. By the said communication it was also clarified that the persons would be eligible for conferment of temporary status who were eligible as on 1.8.98. It may be mentioned that the said communication was issued to the authorities for judging the eligibility on 1.8.98 and did not naturally mean that one was to be in service on the date prescribed on 1.8.98, what was insisted was to attain the eligibility. Numerous applications were filed before us for conferment of temporary status in the light of the scheme. In some of the cases we directed the authority to consider the cases and to pass appropriate order. In some of the cases the authority passed orders rejecting their claim. Against which the aggrieved person moved this Tribunal by way of these applications. In some of the applications written

contd..4

statements were filed and some documents also annexed. On assessment of documents it appears that there was no conformity with the findings reached by the authority alongwith the records produced regarding their engagements. In some cases records indicated that they were engaged for more than 240 days, whereas in the finding they were shown that they did not served for 240 days. In our opinion the matters requires a fresh re-consideration by a responsible authority so that cases of eligible casual labourers are fairly considered. To cite example with the case of O.A.372/2001 the Verification Committee report dated 12.3.02 was shown to us. The Committee consisting of S.C.Tapadar, D.E.(Admn), N.K.Das, C.A.O (Finance) and G.C.Sharma, ADT(Legal) verified and mentioned that the applicant did not complete 240 days in a calender year, whereas again column No. of days yearwise/monthwise in the Annexure the authority referred to his engagement from August 97 to August 98 which comes around 240 days on arithmatical calculation. By another verification committee meeting dated 12.3.2002 consisting of M.C.Pator, D.E(Admn), N.K.Das, C.A.O(Finance) and S.C.Das, ADT(Legal) Circle Office, Guwahati. The committee stated that the applicant completed 45 days in 1994, 20 days in 1995, 24 days in 1996, 15 days in 1997 and one day in April, 1998. The documents contradict itself. We are of the opinion that such type of enquiry or verification committee does not inspire confidence, it was seemingly done in sloven and slip shod fashion. On the other hand it should be entrusted to a responsible authority who would act rationally and responsively. After all it involves to the livelihood of persons concerned and the commitments of the Government.

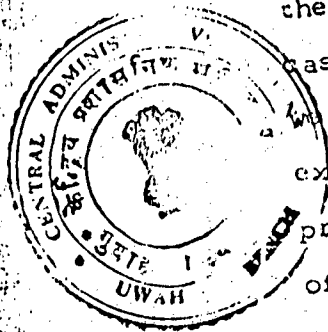


We have perused

20
[background story of the scheme which itself reflected the approval of the authority for absorption of those people for giving the benefit of Government of India at the instance of the Supreme Court. The counsel for the respondents however pointed out that there is a big change in the administrative ^{set up} of the Telecom department. Referring to the new telecom policy of the Government of India 1999, whereby it decided to corporatise the Telecom department ^{through} Bharat Sanchar Nigam Limited and stated that the matters are now within the domain of the BSNL. We are basically concerned in these applications as to the absorption of those casual labourers who were worked under the telecom department as on 1.8.98 and who were eligible for grant of temporary status as on that day. The office memorandum No.269 94/98 STN.II dated 9.9.2000 itself indicated the commitment of the authority for regularisation of the casual labourers. It also appears from the communication issued by the department of Telecommunication dated 3.9.2002 which expressed its concern for resolving the situation. Mr B.C.Pathak, learned Addl.C.G.S.C sought to raise a question of maintainability in some of the cases where BSNL is/a party. BSNL since not notified under Section 14(2), the Tribunal has no jurisdiction to entertain the matter. In these applications the real issue is absorption of the casual labourers those who worked under the telecom department from 1.8.98. The respondents, more particularly, Telecom department committed to its policy for regularisation of such employees. In the circumstances we are of the opinion it will be a fit case to issue appropriate direction to the department of Telecom and the Chief General Manager, Assam Telecom Circle, Guwahati to take appropriate steps for considering the case of these applicants afresh by constituting a responsible committee to go through it for ^{all} once for ^{all} and

scan their records and if in the end it found these people really fulfilled the requirement it will issue appropriate direction to the concerned authority for conferment of temporary status and their absorption as per the scheme. It is expected that the authority shall take appropriate steps after verifying the records and pass appropriate order by notifying these persons concerned. This exercise shall not be confined only to the applicants and the authority shall also deal with the cases left out from the process and examine their case independently. The matters are old one therefore we expect that the authority shall act with utmost expedition and complete the exercise as early as possible preferably within four months from the date of receipt of this order.

With these the applications stand disposed of. There shall, however, be no order as to costs.



Sd/ VICE CHAIRMAN
Sd/ MEMBER (ADM)

TRUE COPY

[Signature]
21/11/02
Section Officer (Judicial),
Central Administrative Tribunal,
Samadhi Road, Guwahati

pg

[Signature]
18/6

22

1. The Chief General Manager,
Assam telecom Circle,
Ulubari, Guwahati.

9-12-2002

(THROUGH PROPER CHANNEL).

Sub: Prayer for Immediate Implementation of Judgment and order dated 06.11.2002 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No. 163 of 2001 (Sri K.K. Kumar Vs. Union of India & Others)..

Respected Sir,

I would like to draw your kind attention on the subject cited above and further beg to state that the undersigned was initially appointed on 1.2.1989 through Employment Exchange following a requisition of the Telecommunication Department. The initial posting is made under S.D.O., Dispur Telephone Exchange as casual worker. I mainly entrusted with the job of Cable laying work and other connected works relating to installation of new lines, over head line, fault repairing etc. which is permanent nature work. Be its stated that the undersigned in 1989 along with the 84 others were recruited following the same requisition of the department.

The name of the applicant initially recommended and forwarded or grant of temporary status along with other similar situated casual workers vide letter bearing No. TDM/EST-179/TSM/94-95/30 dated at GH 21.12.94 (Copy enclosed for your kind perusal). It is categorically submitted that the undersigned fulfilled all the requirements including 240 days working criteria in a particular calendar year since 1.2.1989 and after being satisfied with the eligibility criteria for grant of temporary status my case was recommended and forwarded long back on 21.12.94 along with a batch of 151 casual workers.

It is relevant to mention here that I have approached learned CAT along with 84 other similarly situated casual workers through O.A. No. 100 of 1997. The said Original application was disposed on 24th March 1999 with a direction upon the respondents to consider the representation of each individual applicant within a period of 3 months from the date of the receipt of the representation and till such consideration the service of the applicant shall not be disturbed. However, the representation was rejected by the authority. Being aggrieved with the rejection order I have again approached through O.A. 276 of 1999, interestingly during pendency of the

*Accepted
Sd/-
Advocate
16/6*

aforesaid case all other 84 casual workers (applicants of OA 276 of 1999) were granted the benefit of TSM except the undersigned. However, OA 276 of 1999 was disposed of by the Hon'ble Tribunal on 10.1.2001 with a specific direction to grant similar benefit of TSM to me. (Copy enclosed).

By the order bearing letter No. GMT/EST-179/TSM/00-01/121, dated at Guwahati, the 28th March 2001 wherein the case for grant of temporary status was further rejected showing my date of engagement as May 1996. In fact, my case was not verified at all by the authority and the verification report is a bogus one and same has been passed without consulting the records vouchers and other connected documents. The verification seems to be a farce.

The undersigned again approached through O.A. No. 163/2001 which is now disposed of with a further direction to re-examine my case in the light of the direction contained in judgment and order passed in O.A. Nos. 289/2001, 364/2001, 366/2001, 372/2001, 403/2001, 109/2002 and 160/2002 disposed of on 3.9.2002. Therefore, you are requested to consider my case sympathetically for grant of temporary status and further be pleased to direct the Verification Committee to find out all relevant records, vouchers, and other connected documents since 1.2.89 for proper verification of my case for grant of temporary status. I am enclosing herewith few documents for your kind perusal and for ready reference. Be it stated that the undersigned is working continuously by virtue of the Interim order passed in O.A. 100 of 1997 and subsequently the similar Interim order was passed in other Original Applications filed by the applicant before the CAT, Guwahati Bench.

Enclosure :

1. Judgment dated 24.3.99
2. Judgment dated 10.1.2001
3. Letter dated 28.3.2001
4. Letter dated 21.12.94

Yours faithfully,

Karuna Kanta Kumar
 (Karuna Kanta Kumar)
 S/o Krishna Kanta Kumar
 Vill. Belkona, P.O. Bibdia,
 District-Kamrup