

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. _____
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____
5. Execution Petition No. 2/08 in O.A No. 133/2001

Applicant(S)... Utpal S. Saha... VS Union Of India & Ors

Advocate for the Applicant(S): Adil Ahmed, N. Ahmed, S. Das

Advocate for the Respondant(S): Sr C.G.S.C G. Baidya

Notes of the Registry	Date	Order of the Tribunal
<p>this Execution petition has been filed by the counsel for the applicant W/R 24 of the CAT (Procedure) Rules, 1987, praying for issuance of a direction upon the Respondents to comply with the direction contained in the order dated 01.03.2002 passed in O.A No. 133/01 by this Hon'ble Tribunal.</p> <p>Laid before the Hon'ble Court for further orders, copy served.</p> <p style="text-align: right;">Section Officer</p> <p style="text-align: right;">lm</p> <p style="text-align: right;">19/5/08</p> <p style="text-align: right;">21.29.5. '08</p> <p style="text-align: right;">Pl. issue Notices to the Respondents.</p> <p style="text-align: right;">30/5/08</p>	<p>29.05.2008</p>	<p>This Tribunal has passed an order dated 01.03.2002 in O.A.No.133 of 2001, which has been challenged before the Hon'ble Gauhati High Court by the Respondents. The Applicant has submitted ^{copy of} a letter dated 07.02.2008 received from the Respondents ^{intimating} that the matter is subjudice in the Gauhati High Court. Till date, the Respondents have not been able to furnish the Writ Petition number to the Applicant.</p> <p>In the aforesaid premises, the Respondents are called upon to explain the factual position of the ^{pending} Writ Petition within four weeks.</p> <p>Issue notice to the Respondents. Call this matter on 24th July, 2008.</p> <p style="text-align: right;">(Khushiram) Member(A)</p>

order and notices
send to D/Section
for issuing to resp.
nos. 1 to 4 by regd.
A/D post.

24.07.2008

Despite notice, the Respondents have not yet been filed any reply in this case.

Call this matter on 18.08.2008 awaiting reply from the Respondents.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

18.08.2008

Mr N. Ahmed, learned Counsel appearing for the Applicant, is present. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, on whom a copy of this Execution Petition was served, is not present in court today.

Mr N. Ahmed, learned Counsel appearing for the Applicant, undertakes to verify the matter from the Registry of the Hon'ble High Court at Guwahati pertaining to filing of the Writ Petition under Article 226/227 of the Constitution of the India on 02.09.2002 having serial No.1118/2002 (as reported by the Department/Additional Development Commissioner [Handlooms] letter under Annexure-3 dated 15.11.2002) and intimate the result of the said inspection by the next date.

Call this matter on 10.09.2008.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

① Service report awaited.

23.7.08

W/s not filed.

14.08.2008

Order copy
received by
22.08.08

W/s not filed.

9.9.08

10.09.2008

Mr. N. Ahmed, learned counsel

appearing for the Applicant files a memo to say that no case having Serial No.1118 of 2002 was filed before the Hon'ble Gauhati High Court challenging the order dated 1st March, 2002 of this Tribunal rendered in O.A.No.133 of 2001.

Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India (on whom a copy of the aforesaid memo has already been served) should obtain instructions from the Respondents by day after to-morrow; failing which the Director of Weavers Service Centre, Ministry of Textile, I.I.H.T. Campus, Jawahar Nagar, Khanapara, Guwahati should appear in person to explain the position of the Respondents. Mr. Baishya, learned Sr. Standing Counsel appearing for the Respondents Department undertakes to give notice to the said Director, in course of the day. A free copy of this order be supplied to him. Call this matter day after to-morrow.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

im

31.10.9.08

A free copy of this order to be supplied to Sh. G. Baishya, Sr. Secy

11.9.08

Received
Gauhati High Court
Sr. Secy
11.09.08

11.9.08

verification

report submitted to
the applicant
at Flag 'A', 600
meters to the N. side.

11/9/08

2 PTO

EP. 2/2008 - 4 =

u

12.09.2008

A reply has been filed by the Respondents, in Court to-day after serving a copy thereof, on Mr. N. Ahmed, learned counsel appearing for the Applicant.

Call this matter on 10th November, 2008 for orders.

16.9.08

Affidavit in reply filed by Respondents to the execution petition, copy served.

lm

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

16/9/08

10.11.2008

In this case reply has already been filed by the Respondents. Mr. N. Ahmed, learned counsel appearing for the Applicant seeks an adjournment to file rejoinder.

Call this matter on 04.12.2008, awaiting rejoinder from the Applicant.

Reply filed by
The respondents.
No rejoinder filed.

3
3.12.08.

lm

(S.N. Shukla)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Memo filed by
Sr. CSC, G. Baishya

14.12.08

04.12.2008

Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents are present. Counsel for the Applicant is not present.

Call this matter on 2nd January, 2009.

No rejoinder filed.

14.12.08.

lm

Rejoinder not
filed.

1.01.09.

(S.N. Shukla)
Member(A)

20.02.2009 Heard Mr. N. Ahmed, learned counsel

appearing for the Applicant and Mr. G.

Baishya, learned Sr. Standing Counsel

representing the Respondents

Mr.N.Ahmed, learned counsel appearing for the Applicant is present. Mr.G.Baishya, learned Sr. Standing counsel is represented by

Mrs. Bipasha Das, Advocate.

The Applicant, although undertook to file the E.P.No.2 of 2008 in O.A. No.133 of 2001, has not yet filed any rejoinder.

Call this matter on 04.02.2009 awaiting rejoinder from the Applicant.

In the meantime, Respondents should furnish up-to-date report pertaining to compliance of the order dated 01.03.2002 of this Tribunal rendered in O.A. No.133 of 2001.

Send copies of this order to the Applicant and to the Respondents in the address given in the O.A.

(M.R.Mohanty)
Vice-Chairman

/bb/

04.02.2009

No rejoinder has yet been filed by the Applicant although undertaken. Mr.N.Ahmed, learned counsel for the Applicant prays for time to file rejoinder.

Call this matter on 20.02.2009 awaiting rejoinder from the Applicant.

(M.R.Mohanty)
Vice-Chairman

/bb/

(M.R.Mohanty)
Vice-Chairman

Copies of order dt.
02.1.2009 send to
B/sec for issuing to
Applicant & Respondent
by post

B/NO
B/.

5/1/09

Rejoinder not
filed.

3
3.2.09

Rejoinder not
filed.

3
19.2.09

EP No.2 of 08(O.A. 133/2001)

20.02.2009

Heard Mr. N. Ahmed, learned counsel
appearing for the Applicant and Mr. G.
Baishya, learned Sr. Standing Counsel
representing the Respondents.

For the reasons recorded separately,
the E.P.No.2 of 2008 in O.A. No.133 of 2001

stands disposed of.

(M.R.Mohanty)
Vice-Chairman

from Shri P. Singh, Director,
Office of the Development
Commissioner for Handlooms
Weavers Service Centre, Guwahati
regarding Execution Petition
No. 2/08 in O.A. No. 133/2001
Utpal Sutradhar Vs. L.O.I. 900,
which will speak itself

Laod before the Honble

N.C. for further orders.

Section Officer (I)

25/2/09

Copy received

by Sr. 645

G. Baishya

H. K. K. K.

Adv.

16.3.09


16.3.09

Copy of the
order dated 20.2.09
sent to the office
for issue the order
to the Applicant as
well as to the Regd.
No. 1 to 4 by Post.
thh.

8

A letter dated 14.9.09 (at flag A) received from A.K. Pandey, Officer in-charge, Weavers Service Centre, Gorkhabasti, Kumpabon, Agartala in connection with O.A No. 133/2001. which will speak itself.

Laid before the Honble Cmt for perusal


21/10/09.

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

E.P. No.2/2008 in O.A. No. 133 of 2001

DATE OF DECISION : 20.02.2009

Shri Utpal Sutradhar

.....Applicant/s

Mr. Adil Ahmed, Mr. Nuruddin Ahmed and Ms. S. Das Choudhury

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

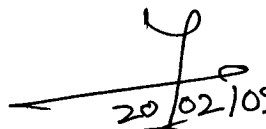
Mr. G. Baishya, Sr. C.G.S.C.

..... Advocate for the
Respondents

CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE-CHAIRMAN

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


20/02/09
Vice-Chairman /Member

9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

E.P. No.2/2008 in Original Application No.133 of 2001

Date of Order: This the 20th Day of February, 2009

HON'BLE MR.MANORANJAN MOHANTY, VICE-CHAIRMAN

Shri Utpal Sutradhar
S/o Late Dinabandhu Sutradhar
Carpenter
Office of the Deputy Director
Weaver's Service Centre
Ministry of Textile
Govt. of India, Agartala
P.O.- Shamali Bazar
P.S.- West Agartala
Pin Code- 799006, (Tripura).

..... Applicant

By Advocate: Mr. Adil Ahmed, Mr. Nuruddin Ahmed and Ms. S. Das Choudhury.

-VERSUS-

1. The Union of India
Represented by the Development
Commissioner for Handloom
Ministry of Textile
Government of India
(Udyog Bhavan)
New Delhi- 110011.
2. The Director
Weavers Service Centre
Ministry of Textile
I.I.H.T. Campus
Jawahar Nagar
Khanapara, Guwahati- 781002.
3. The Deputy Director
Weavers Service Centre
Gurkhabasti, Agartala
Pin- 799006.
4. The Assistant Director
Office of the Development
Commissioner for Handloom
Government of India
Ministry of Textile
Udyog Bhavan
New Delhi- 110011.

..... Respondents

By Advocate: Mr. G. Baishya, Sr. C.G.S.C.



2

10

ORDER(ORAL)

20.02.2009

Heard Mr. N. Ahmed, learned counsel appearing for the Applicant and Mr. G. Baishya, Learned Sr. Standing Counsel representing the Respondents.

2. O.A.No.133 of 2001 filed by the present Applicant was disposed of on 1st March, 2002. The relevant portion of the said order dated 1st March 2002 reads as under:-

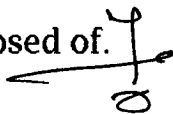
“The substantive appointment was fixed on 01.04.1988 and no reason assigned as to how it was again changed without taking the applicant in to confidence. In the circumstances the impugned communication dated 28.02.2001 refixing the date of substantive appointment of the applicant as 07.06.1990 in place of 01.04.1988 is set aside and quashed. The respondents are directed to regularize the period of absence during his training with all benefits of pay and allowances”.

3. The Respondents having not given the required/consequential benefit to the Applicant, he has filed the present Execution Petition No.2 of 2008.

4. By way of filing reply in the present Execution Petition No.2 of 2008, the Respondents have disclosed that steps were taken by them (Respondents) to challenge the aforesaid order dated 01.03.2002 in the Hon'ble Gauhati High Court and, as it appears, the said Writ Petition has been misplaced (at the filing stage) since November, 2002. It appears that the Respondents took no steps in the matter since 2002. They even failed to take any action after receipt of notice in the present Execution Petition No.2 of 2008.

5. In the aforesaid premises, Respondents are directed to comply with the order dated 1st March, 2002 of this Tribunal (rendered in O.A. No.133 of 2001) by end of April, 2009 under intimation to the Applicant.

6. With the aforesaid direction, this Execution Petition No. 2 of 2008 stands disposed of.



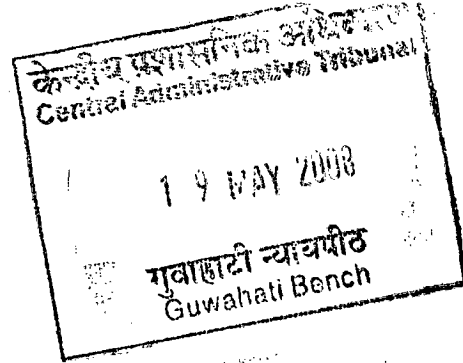
3

7. Send copies of this order to the Applicant and to all the Respondents. Free copies of this order be supplied to Advocates of both parties.

20/02/09

(M.R.Mohanty)
Vice-Chairman

/pb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under Rule 24 of the Central
Administrative Tribunal Procedure Rules, 1987)

EXECUTION PETITION NO. 1 OF 2008
In Original Application No.133 of 2001

Sri Utpal Sutradhar

...Applicant

- Versus -

The Union of India & Others

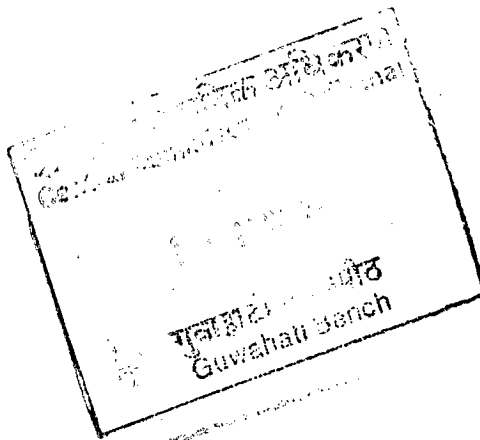
...Respondents

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8	Annexure - 6	18

Filed By

Nuruddin Ahmad
ADVOCATE 19/05/08



FILED BY

Sri Utpal Sutradhar

Petitioner

Through Nuruddin Ahmed

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An application under Rule 24 of the Central
Administrative Tribunal Procedure Rules, 1987)

EXECUTION PETITION NO. 2 OF 2008

In Original Application No. 133 of 2001

IN THE MATTER OF

O.A. No. 133 of 2001

Shri Utpal Sutradhar ..Applicant

-VERSUS-

The Union of India & Others

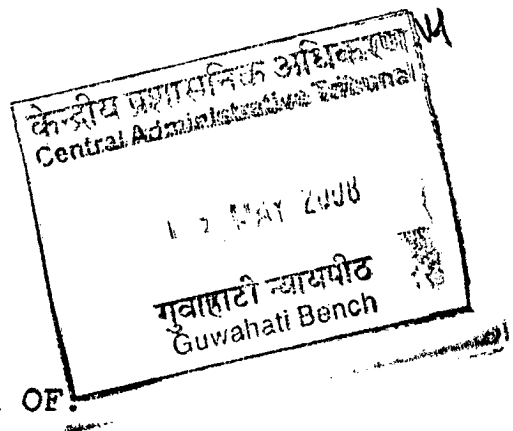
.. Respondents

-AND -

IN THE MATTER OF

An application under Rule 24 of
the Central Administrative
Tribunal Procedure) Rules, 1987
praying for issuance of a
direction upon the Respondents
to comply with and/or implement
the direction contained in the
order dated 01.03.2002 passed in
O.A. No.133 of 2001.

Utpal Sutradhar.



-AND-

IN THE MATTER OF:

Shri Utpal Sutradhar
Son of Late Dinabandhu Sutradhar
Carpenter, Office of the Deputy
Director Weavers' Service Centre
Ministry of Textile, Govt. of
India, Agartala, P.O. Shamali
Bazar, P.S.-West Agartala,
PIN Code-799006, (Tripura).

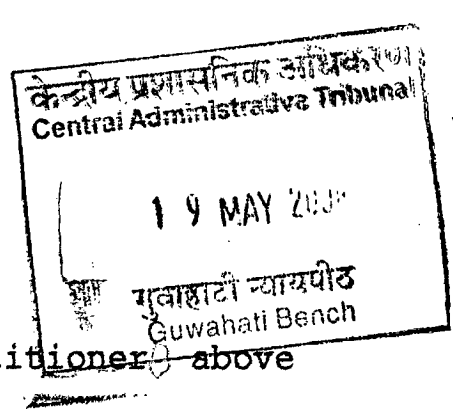
..Petitioner

-VERSUS-

- 1] The Union of India, represented
by the Development Commissioner
for Handloom, Ministry of
Textile, Government of India,
(Udyog Bhavan),
New Delhi-110011.
- 2) The Director, Weavers Service
Centre, Ministry of Textile,
I.I.H.T. Campus, Jawahar Nagar,
Khanapara, Guwahati-781022.
- 3) The Deputy Director, Weavers
Service Centre, Gurkhabasti,
Agartala, PIN-799006.
- 4] The Assistant Director, Office
of the Development Commissioner
for Handloom, Government of
India, Ministry of Textile,
Udyog Bhavan, New Delhi-110011.

..Respondents

Utpal Sutradhar



The humble Petitioner above
named:

MOST RESPECTFULLY SHEWETH

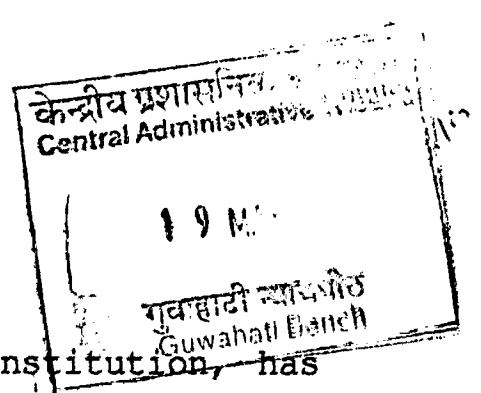
1. That your humble Petitioner had filed the Original Application No.133 of 2001 before this Hon'ble Tribunal regarding regularization of the period spent in study and also legality of the order dated 28-02-2001 whereby the respondents had re-fixed substantive date of appointment of the applicant.

2. That the Hon'ble Tribunal finally heard both the parties on 01.03.2002 and was pleased to allow the Original Application No. 133 of 2001. The Hon'ble Tribunal was pleased to set aside the impugned communication dated 28-02-2001 re-fixing the date of substantive appointment of the applicant as 07-06-1990 in place of 01-04-1988. The respondents were also directed to regularize the applicant's absence period, during his training, with all benefits of pay and allowances.

Photocopy of Judgment & Order dated 01-03-2002 passed in O.A.No.133 of 2001 is annexed herewith and marked as ANNEXURE-1.

3) That your Petitioner begs to state that after obtaining the certified copy of the aforementioned order dated 01-03-2002 passed in O.A. No. 133 of 2001, he filed a representation on 31.10.2002 before the Respondent No. 1 through proper channel for implementation of the said order passed by this Hon'ble Tribunal. The office of the Respondent No. 1 vide his Office Memorandum No. C-18014/1/2001/DC(HL)/ E.II dated 15-11-2002 informed the petitioner that "Since an

Utpal Sutradhar



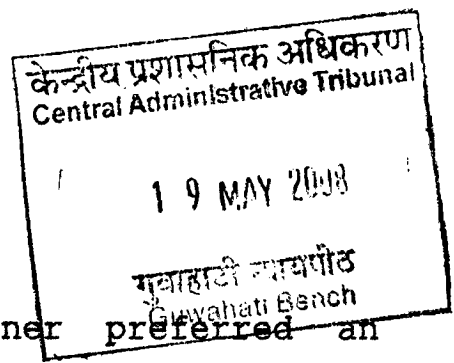
✓
Appeal under Article 226/227 of the Constitution, has already been filed by the Department on 02-09-2002, in the High Court of Assam at Guwahati vide Sl. No. 1118 of 2002, the matter has become subjudiced before the Court of Law. Thus, no action can be taken at this stage, in the matter, until decision on the aforesaid Writ Petition is arrived."

Photocopy of the representation dated 31.10.2002 is Annexed herewith and marked as Annexure-2.

Photocopy of the Office Memo. No.C-18014/1/2001/DC(HL)/ E.II Dated 15.11.2002 is annexed herewith and marked as Annexure-3.

4) That your Petitioner begs to state that though the respondents have claimed that they have filed a writ petition before the Hon'ble High Court at Guwahati against the aforementioned order dated 01-03-2002 passed by this Hon'ble Tribunal in O.A. No. 133 of 2001, but till date the petitioner have not received any copy of the said writ petition or notice regarding filing of the writ petition, neither from the respondent authorities nor from the registry of the Hon'ble High Court. In the meantime, he filed representations before the respondent No.1 & 2 for implementation of the Hon'ble Tribunal Order dated 01.03.2002. In one of such representation dated 24-09-2007 filed before the respondent No.1, the petitioner had stated that recently he come to know from reliable source the case mentioned in the office memorandum dated 15-11-2002 is no way related to him. Surprisingly, till date respondents have not contradicted the same nor communicated to the petitioner about the fate of the said writ petition.

Utpal Sutradhar



Lastly, on 07-02-2008 the petitioner preferred an appeal before the Hon'ble Registrar, (Judicial), Gauhati High Court for the information of the writ petition filed by the respondents. However, till date he has not received any reply or any communication from the Hon'ble Registry of the Hon'ble Gauhati High Court. As such, finding no other alternative the petitioner is compelled to approach this Hon'ble Tribunal by filing the instant Misc. Petition under Rule 24 of the Central Administrative Tribunal Procedure Rules, 1987.

Photocopy of representation dated 24.09.2007 submitted before the Respondent No.1 is annexed herewith and marked as Annexure-4.

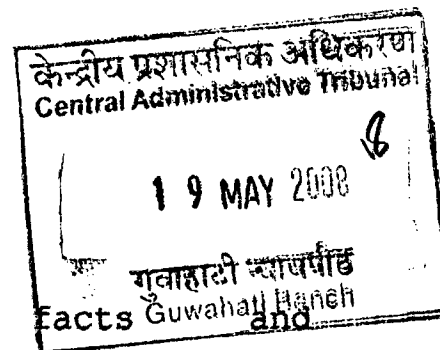
Photocopy of letter dated 11.10.2007 issued by the respondent No.2 is annexed herewith and marked as Annexure-5.

Photocopy of representation dated 07.02.2008 submitted before the Registrar (Judicial) Gauhati High Court, Guwahati is annexed herewith and marked as Annexure-6.

5. That your Petitioner humbly submits this Hon'ble Tribunal may be pleased to direct the Respondents under Rule 24 of the Central Administrative Tribunal (Procedure) Rules of 1987 to implement the Judgment and Order dated 01-03-2002 passed in O.A. No. 133 of 2001. Hence, this Petition for passing an appropriate order by this Hon'ble Tribunal.

6. That the Petitioner filed this Petition bona-fide and to secure the ends of justice.

Utpal Suetradhay.

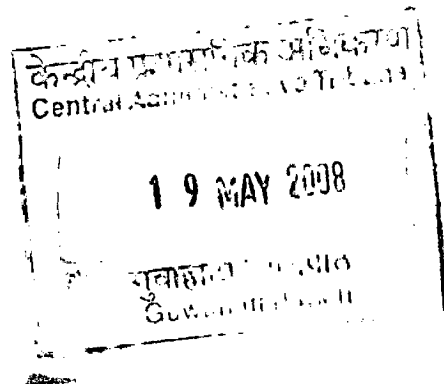


Under the facts and circumstances stated above that Your Lordships may be pleased to admit this Petition and issue notice on the Respondents to show cause as to why necessary order or orders as prayed for should not be passed directing and/or commanding the Respondents to give implement the order dated 01.03.2002 passed in O.A.No.133 of 2001 and if any cause or causes being shown and upon hearing the parties be pleased to direct the Respondents to comply with and/or to give effect to the order dated 01-03-2002 passed in O.A.No.133 of 2001.

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

. . . Verification

Utpal Subradhax.



V E R I F I C A T I O N

I, Shri Utpal Sutradhar, aged about 44 years, Son of Late Dinabandhu Sutradhar working as Carpenter in the Office of the Deputy Director, Weavers Service Centre, Ministry of Textiles, Government of India, Agartala, P.O.:Shamali Bazar, P.S.:West Agartala, Pin Code:799006, Tripura do hereby solemnly verify and state as follows:-

1) That I am the Applicant of O.A. No.133 of 2001 and also Petitioner of this instant Petition. I am fully acquainted with the facts and circumstances of the case.

2) The statements made in paragraph Nos. 1, 3 (partly), 4,are true to my knowledge and belief and those made in paragraph 2, 3 (partly) of the Petition being matters of record are true to my information, which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I signed this Verification on this 19th day of May 2008.

Utpal Sutradhar
D E C L A R A N T

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 133 of 2001.

Date of Order : This the 1st Day of March, 2002.

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

Sri Utpal Sutradhar,
Carpenter,
Weaver's Service Centre,
Ministry of Textiles,
Agartala.

. . . Applicant

By Advocate Miss Sankari Das.

- Versus -

1. Union of India,
represented by the Development Commissioner
for Handloom, Ministry of Textile,
Govt. of India (Udyog Bhavan),
New Delhi-11.
2. Director, Weaver's Service Centre,
Ministry of Textiles,
I.I.H.T. Campus, Jawahar Nagar,
Khanapara, Guwahati-22.
3. Deputy Director,
Weaver's Service Centre,
Gurkhabasti, Agartala-6.
4. Assistant Director,
Office of the Development Commissioner
for Handlooms, Govt. of India,
Ministry of Textiles,
Udyog Bhavan,
New Delhi-11.

. . . Respondents.

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



O R D E R

CHOWDHURY J.(V.C)

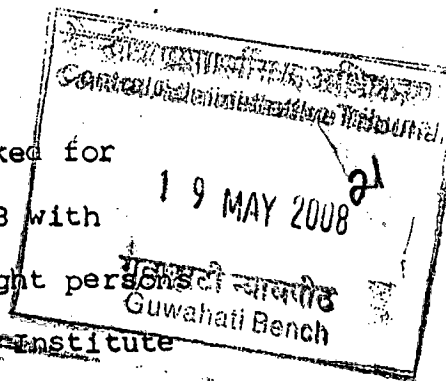
The controversy raised in this application relates to the regularisation of the period spent in study and also legality of the order dated 28.2.2001 refixing the date of substantive date of appointment of the applicant in the following circumstances.

The applicant was appointed as a Carpenter, a Group C post in the pay scale of Rs.950-1500/- in the Weaver's Service Centre, Indian Institute of Handloom

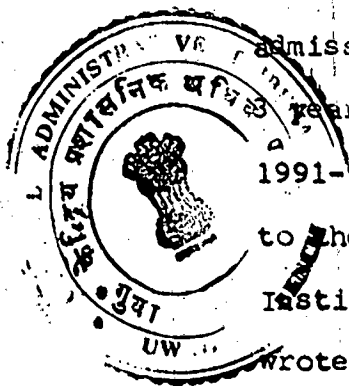
ATTESTED

ADVOCATE

contd..2



Technology, Agartala against the quota earmarked for physically handicapped vide order dated 8.1.88 with effect from 7.12.87. By order dated 6.6.95 eight persons working in the Weavers Service Centre, Indian Institute of Handloom Technology under the Eastern Zone were appointed in substantive capacity in the post with effect from the date shown against each. The name of the applicant appeared at serial No.7 to the post of Carpenter and the date of substantive appointment was shown as 1.4.88. While the applicant serving as such he applied for admission to 3 years DHT course in the Indian Institute of Handloom Technology at Varanasi on non stipendiary basis. His application was forwarded by the department and accordingly office order No.J-11011/1/91.WSC/E-II dated 26.7.91 was issued. granting permission to the applicant to take admission on non stipendiary basis in the first year of 3 years diploma course of DHT during the academic year 1991-92. The applicant accordingly left for Varanasi to the knowledge of the authority and joined in the Institute. The applicant by his application dated 12.8.91 wrote to the officer in charge Weavers Service Centre, Agartala to issue a no objection certificate as was insisted by the authority and also issue a formal relieving order with effect from 9.8.91 from the Weaver's Service Centre, Agartala. In this application he mentioned about his application dated 9.8.91 for granting study leave and joining his course. The applicant completed his course in due time and came back to Agartala where he was also directed to impart training to the trainees weavers under Hill Area Project and Project packages scheme in addition to his normal duties until further orders. The applicant completed his course and obtained diplome in Handloom Technology from the Indian Institute of Handloom Technology, Varanasi. In the meantime the respondents authority by order dated 15.7.92 came down

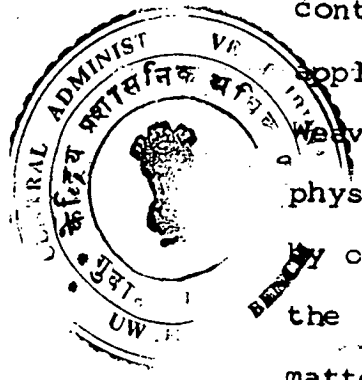


ATTESTED

AD

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
MAY 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

his application for granting study leave on the ground that he did not complete 5 years of service and he had also not completed the period of probation. The applicant is getting his salary without any increments and by impugned order dated 28.2.2001 the applicant's substantive appointment as a Carpenter was refixed from 7.6.90 by cancelling the order dated 6.6.95 wherein the date of substantive appointment of the applicant was shown as 1.4.88. In this application the applicant has sought for a direction on the authority for regularising the period spent in study and release his arrears which was not paid during the study period and also prayed for quashing the order No. WSC/GAU/AGT/15(1)/2001/947 dated 28.2.2001.



2. The respondents submitted its written statement and contested the claim. According to the respondents the applicant was appointed as Carpenter, a Group C post of Weaver's Service Centre in a temporary capacity against physically handicapped quota. It was also admitted that by order dated 6.6.95 the applicant was made regular but the same order was issued through oversight and when the matter came to the notice of the authority the same was corrected by another order dated 2.3.2001 in the form of corrigendum. It was also stated that the applicant was allowed to take admission into the diploma course at his own risk and interest and DHT course has no relation with the nature of duty of the applicant in any way. No study leave was granted to the applicant by the competent authority vide order dated 15/16.7.92 and as per leave rules the applicant was not entitled to such leave as he did not complete 5 years of regular service. The respondents also stated that no doubt the applicant applied for relieving order and no objection certificate but no such order/certificate was issued in favour of

ATTESTED

ADVOCATE

19 MAY 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

the applicant. In the written statement the respondents mentioned that 18 days leave was granted to the applicant with effect from 12.8.91 to 29.8.91 and again 42 days leave without pay was also granted to the applicant from 30.8.91 to 10.10.91. After availing 60 days leave worked in the office from 11.10.91 to 8.11.91 and then left for Varanasi on 10.11.91. Thereafter he again joined on duty on 5.5.92 after availing 178 days EOL (without pay) with effect from 9.11.91 to 4.5.92. The applicant worked in the office from 5.5.92 to 21.7.92. The applicant again left for Varanasi and rejoined the office in 1994. During the period for which the applicant worked and the period for which E.L was granted he was paid salaries. For the period between 21.7.92 to 1994 no leave was granted to the applicant and from 5.5.92 to 5.5.94 no increment was also granted to him.

3. I have heard Miss Sankari Das, learned counsel for the applicant at length and also Mr A. Deb Roy, learned Sr.C.G.S.C for the respondents. Miss Das, learned counsel for the applicant submitted that the respondents acted in a most illegal fashion overlooking the relevant considerations. Miss Das submitted that the for undergoing the diploma course in Handloom technology the applicant applied through proper channel. His application was forwarded and in due course the applicant was recommended for granting admission on a non stipendiary basis as per the order of the respondents and also issued in the public interest. There is no justification for not giving him the study leave as admissible. Mr Deb Roy, learned Sr.C.G.S.C on the other hand submitted that the respondents rightly rejected the study leave of the applicant as he did not complete the 5 years regular service

ATTESTED
ADVOCATE

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
9 MAY 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

and the period of probation and referred to the rules relating to the conditions for grant of study leave. Chapter VI of the Central Civil Services (Leave) Rules 1972 provides conditions for grant of study leave. Rule 52 of the said rules pertains to application for study leave. Rule 53 relates to sanction of study leave. Admittedly the application of the applicant was processed and thereafter the competent authority including the respondents, the Government of India, Ministry of Textiles recommended the applicant for taking admission on non stipendiary basis. Naturally when order was issued the applicant joined the course with the knowledge of the respondents. Under sub-rule 5 of Rule 50(i) study leave may be granted to the Government servant who has satisfactorily completed the period of probation and has rendered not less than five years regular service including the period of probation under the Government. The applicant was appointed earlier in a substantive capacity vide order 6.6.95 and he was assigned with higher responsibility. Legal policies are laid down in the rules. In the circumstances the respondents instead of taking a sententious view ought to have looked into the substance of the rule and necessarily grant him the study leave. Mr Deb Roy, learned Sr.C.G.S.C submitted that study leave has also a prescribed limit which ordinarily be for 12 months at a time and when it is a fit case for extending the benefit. The applicant by now has already completed the course and there was not justification for not regularising the period of absence. The respondents are accordingly directed to regularise his leave period by granting him study leave as admissible, or in aid of the provision of the leave rules. The applicant cannot be denied with increments and the

ATTESTED

(Signature)

contd..6 ADVOCATE



केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
9 MAY
गुवाहाटी न्यायपीठ
Guwahati Bench

due salary only on the ground mentioned. The higher education itself is an asset to the department and the department can use and take benefit from his skill and educational qualification. I also do not find any justification for changing the date of substantive appointment of the applicant from 1.4.88 to 7.6.90.

The substantive appointment was fixed on 1.4.88 and no reason assigned as to how it was again changed without taking the applicant into confidence. In the circumstances the impugned communication dated 28.2.2001 refixing the date of substantive appointment of the applicant as 7.6.90 in place of 1.4.88 is set aside and quashed. The respondents are directed to regularise the period of absence during his training with all benefits of pay and allowances.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

TRUE COPY
प्रतिप्रति

pg

Section Officer (J),
गुवाहाटी कमिश्नरी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati.
गुवाहाटी न्यायपीठ, गुवाहाटी

ATTESTED

ADVOCATE

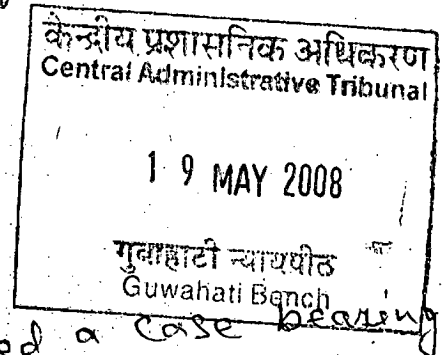
To

The Development Commissioner for Hand Loom.

New Delhi, Udyog Bhavan.

Pin:- 110011

Through Proper Channel.



Sir,

I am to inform you that I filed a case bearing NO. 133 of 2001 before the Hon'ble Central Administrative Tribunal, Guwahati for passing an order for regularising of study leave and so on.

That accordingly Hon'ble Tribunal passed an order dated 01.03.2002 in favour of me.

That more than ten month has already been elapsed but unfortunately I have not got any relief.

In the circumstances stated above, you are requested to make payment with interest within fifteen days from the date of receipt of this letter otherwise I shall be bound to do Contempt of Court.

Date:- 31-10-2002

Yours faithfully.

Utpal Sutradhar.
Carpenter, W.S.C.
Agartala.

ATTESTED

ADVOCATE

No.C-18014/1/2001/DC(HL)/E.II
GOVERNMENT OF INDIA
MINISTRY OF TEXTILES
OFFICE OF THE DEVELOPMENT COMMISSIONER (HANDLOOS)
@@@

Udyog bhawan, New Delhi
Dated the 15th Nov'02

OFFICE MEMORANDUM

With reference to his representation dated 31st October, 2002, Shri Utpal Sutradhar, Carpenter in Weavers' Service Centre, Agartala is hereby informed that his request has sympathetically been considered by this office.

2. Since an Appeal under Article 226/227 of the Constitution, has already been filed by the Department on 2/9/2002, in the High Court of Assam at Guwahati vide SI.No.1118 of 2002, the matter has become subjudiced before the Court of Law. Thus, no action can be taken at this stage, in the matter, until decision on the aforesaid Writ Petition is arrived.

S. Arana
(S. ARANA)

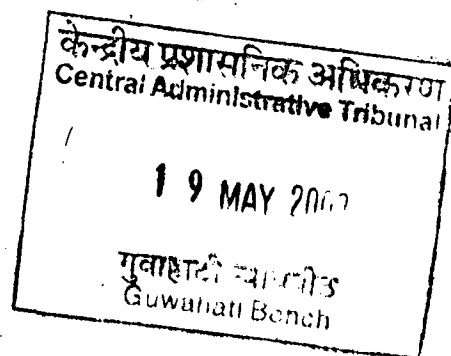
ADDL.DEVELOPMENT COMMISSIONER (HANDLOOMS)

Copy to -

1. ✓ Sh. Utpal Sutradhar, Carpenter, Weavers' Service Centre, Agartala.
2. The Officer In-charge, Weavers' Service Centre, Agartala.
3. The Zonal Director, Weavers' Service Centre, Guwahati.
4. Guard file.

S. Arana
(S. ARANA)

ADDL.DEVELOPMENT COMMISSIONER (HANDLOOMS)



ATTESTED

[Signature]
ADVOCATE

To
The Development Commissioner for Hand Loom,
New Delhi, Udyog Bhavan,
PIN - 110011.

Sir,

I am to inform you that I filled a case bearing No.133 of 2001 before the Hon'ble Central Administrative Tribunal, Gauhati for passing an order for regularising of study leave and so on.

That accordingly Hon'ble Tribunal passed an order dated 01.03.2002 in favour of me.

That more than five and half years has already been elapsed. Several times, I submitted representation to your honour but unfortunately I have not got any relief.

That an office memorandum No.C-18014/1/2001/DC(H.L)/E.II dated 15.11.2002 was issued stating that an appeal under Article 226/227 of the Constitution, has already been filed by the Department on 2.9.2002 in the High Court of Assam at Gauhati, the matter has become subjudiced before the court of Law.

That nearly six years is passed but till now I have not got any notice or information regarding the case mention in your memorandum.

Recently I came to know from reliable source that the case mentioned in the office memorandum dated 15.11.2002 is no way related to me.

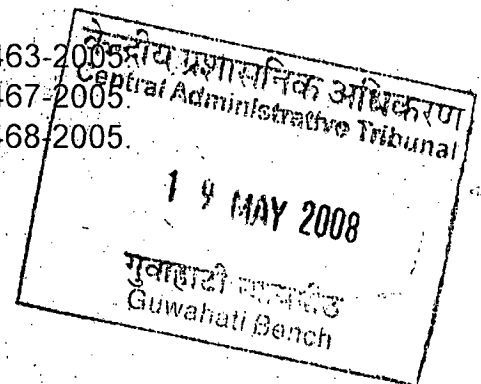
That the Hon'ble Tribunal mentioned in the order stating that the higher education itself is an asset to the Department and Department can use and take benefit from his skill and educational qualification.

That according to the order of the Hon'ble Tribunal, the officer-in-charge, W.S.C. Agartala has been using me in the field of making point paper designs, repairing Jacquard, Jacquard Card punching, weaving and so on.

As per order of the Officer-in-charge, W.S.C Agartala, I have made some samples by using jacquard. Few numbers of the samples are given below:-

S.L.No.
126 WSC/AGT/1435-2004.
127 WSC/AGT/1436-2004.
128 WSC/AGT/1437-2004.
129 WSC/AGT/1438-2004.
130 WSC/AGT/1439-2004.
131 WSC/AGT/1440-2004.
145. WSC/AGT/1454-2004.
146. WSC/AGT/1455 -2004.

S.L.No.
4. WSC/AGT/1463-2005.
8. WSC/AGT/1467-2005.
9. WSC/AGT/1468-2005.



That doing stated above I was not favoured with any better chance for the reasons best known to you.

In the circumstances stated above, you are requested to make payment with interest within fifteen days from the date of receipt of this letter otherwise I shall be bound to do contempt of court. This application may kindly be treated as most urgent.

Date - 24.09.2007

Yours faithfully,
Utpal Sutradhar
(UTPAL SUTRADHAR)
Carpenter, W.S.C., Agartala.

ATTESTED

ADVOCATE

Government of India
Ministry of Textiles
Weavers' Service Centre
IIHT Campus
Jawahar Nagar, Khanapara
National Highway No. 37
Guwahati-781 022
PH: (0361) 230-3586; FAX: 0361-2302599

No. WSC/GAU/HC/U 12(7)/2002/2408

Dated October 11, 2007

To,
The Deputy Director (I/C),
Weavers' Service Centre,
Agartala

Sub: Forwarding of representation in respect of Sh. U. Sutradhar, Carpenter-reg.

Sir,

Please refer to your letter No. WSC/AGT/P-61/07/1295 dated 27-9-07 forwarding therewith two representations addressed to the Development Commissioner for Handlooms, New Delhi and its copies endorsed to this office.

In this connection, I am to state that since the matter is subjudice before the court of law, at this stage we are not in a position to offer any comments on the matter. However, this office is actively looking into the matter through the counsel.

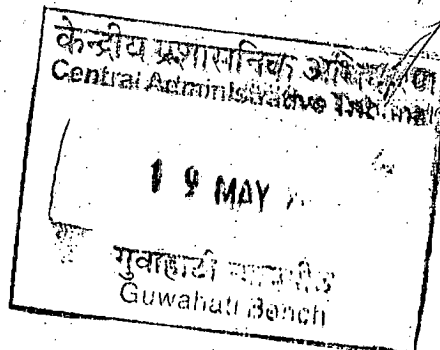
You are therefore requested to inform the same to Shri U. Sutradhar, Carpenter of your centre accordingly..

Yours faithfully,

(K.K. BAVISKAR)
Director

Copy to:

- ✓ 1. Shri Utpal Sutradhar, Carpenter, WSC., Agartala for his information
2. The Addl. Development Commissioner for Handlooms, Office of the D.C. (Handlooms), Udyog Bahvan, New Delhi. Copies of representations dated 24/9/07 and dated 24/9/07 received from Shri U. Sutradhar, Carpenter, WSC., Agartala are enclosed herewith for his kind perusal



(K.K. BAVISKAR)
Director

ATTESTED
ADVOCATE

Dated, 07-02-2008

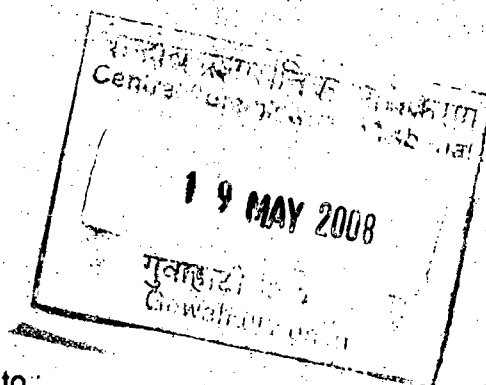
To
The Registrar(Judicial)
Gauhati High Court,
Guwahati.

Sub. : Information about Writ Petition filed at the Principal Seat.

Sir,

I am an employee in the Ministry of Textiles at the Weavers Service Centre, Agartala. I filed a petition before the CAT, Guwahati, which was disposed of on 01-03-2002 allowing the reliefs I prayed for.

My employer on an enquiry thereafter informed me by Office Memorandum dated, 15-11-2002 that a Writ Petition seeking judicial review of the Judgment of the CAT was filed at the Principal Seat of the Gauhati High Court on 02-09-2002 vide Serial No.1118 of 2002. On receiving this information I did not take any step and waited for service of Notice on me. But in the mean time a long period of 5 years has elapsed, but I have not received any notice from the Court to confirm the information given to me by my employer. I would therefore, request you kindly to look into the matter and intimate as to whether any such Writ Petition has at all been filed by the Government of India, Ministry of Textiles seeking judicial review of the Judgment passed by the CAT, Guwahati in O.A.133 of 2001. If at all filed kindly inform why no notice could be served on me during the last 5(five) years. I would be grateful if you kindly favour me with the quick reply.



Yours faithfully,

Utpal Sutradhar
(Utpal Sutradhar)
Carpenter,
Weavers' Service Centre,
Agartala.

Copy for information to :

1. The Additional Development Commissioner (Handlooms) ,Ministry of Textiles, New Delhi.
2. The Director, Weavers' Service Centre, Ministry of Textiles, IIHT Campus, Jawaharnagar, Khanapara, National Highway No.37.,Guwahati. He may kindly intimate the Writ Petition number and the fate of the Writ Petition stated to have been filed in 2002.

ATTESTED



ADVOCATE B

Utpal Sutradhar
(Utpal Sutradhar)
Carpenter,
Weavers' Service Centre,
Agartala.

File in Court on 10/09/08
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Guwahati Bench, Guwahati

Execution Petition No.2 of 2008

In O.A. No.133 of 2001

Shri Utpal Sutradhar

-Vs-

The Union of India & Others

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
10 SEP 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

FILED BY

Nuruddin Ahmad

Advocate

10/09/08

Subject- Submission of Verification Report.

Ref: Order dated 18.8.2008 passed by this Hon'ble Tribunal in Execution Petition No.2 of 2008.in O.A. No.133of 2001.

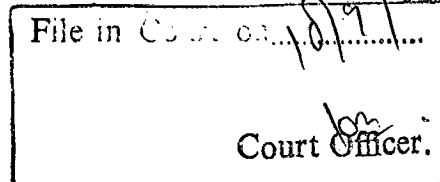
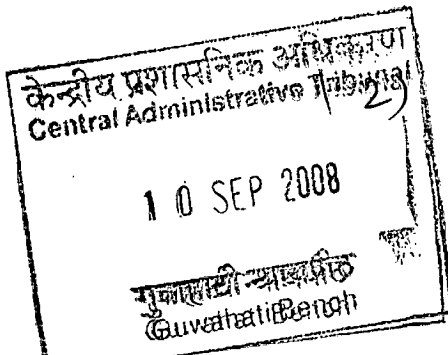
Lordships,

With reference to the above subject I am enclosing herewith the petition filed by me before the Registrar (Judicial), Hon'ble Gauhati High Court regarding information about the Writ Petition filed by the Union of India against the order dated 01.03.2002 passed by this Hon'ble Tribunal, Guwahati Bench, Guwahati in O.A. No.133 of 2001.

As per the report placed in the body of my petition the Assistant Registrar (Bench), Gauhati High Court, Guwahati informed that the Serial No.1118 of 2002 is belongs to ITA case. It is worth to mention here that the Assistant Registrar (I&E), Gauhati High Court has vide its Memo. No.HCW.A.No.4660/W.A. dated 14.12.2007 informed the Director, Government of India, Ministry of Textiles, Weavers Service Centre, Khanapara, Guwahati 22 that the Serial No.1118 /02 belongs to ITA case and the copy of the filing slip was enclosed with the report.

This is for your information. Oblige

Received
Grantam Bisht
Sr. Case
10.09.08



To

The Registrar (Judicial)
Gauhati High Court.
Guwahati

Date: 08-09-2008.

Subject: Information about the Writ Petition filed by the Union of India against the order dated 01.03.2002 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati O.A. No.133 of 2001.

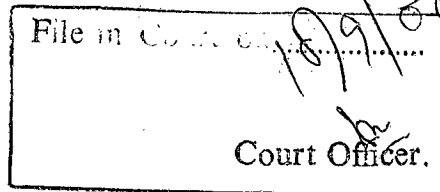
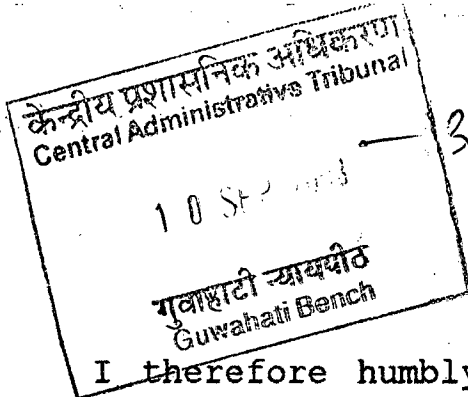
Reference: Order dated 18.08.2008 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in Execution Petition No 2 of 2008 in O.A. No.133 of 2001.

Madam,

With reference to the above subject I beg to state that my client Shri Utpal Sutradhar have filed an Original Application No.133 of 2001 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati. The Hon'ble Tribunal vide its order dated 01.03.2002 passed in O.A. No. 133 of 2001 allowed the aforesaid Original Application. The Respondent No.1 of the said Original Application i.e. Ministry of Textile, Government of India, Office of the Development Commissioner(Handloom), New Delhi vide their Office Memorandum dated 15.11.2002 informed my client that they have filed a Writ Petition under Article 226/227 of the Constitution of India before this Hon'ble High Court at Guwahati vide Sl.No.1118 of 2002 against the order passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.133 of 2001. However, after six years of issuance of the Office Memorandum dated 15.11.2002 the Respondents of the Original Application No.133 of 2001 were not able to produce any order or copy from this Hon'ble High Court in connection with the said Writ Petition filed by them. It is worth to mention here that earlier my client has also inquired the said matter through you vide his letter dated 07.02.2008. But till date he has not receipt any reply from your end.

Now, my client has filed an Execution Petition No.2 of 2008 in O.A. No.133 of 2001 through me before the Hon'ble Tribunal. The Hon'ble Tribunal vide its order dated 18.08.2008 directed me to verify the matter from the Registry of this Hon'ble Court about filing of the Writ Petition under Article 226/227 of the Constitution of India on 02.09.2002 having Serial No.1118 of 2002 [As reported by the Office of the Development Commissioner (Handloom), Government of India, Ministry of Textile vide their Office Memorandum dated 15.11.2002]

A.R.(98E)
P.L. 80
28/9/08



I therefore humbly request your Honour to kindly verify the aforesaid matter whether the Respondents have filed Writ Petition under Article 226/227 of the Constitution of India on 02.09.2002 having Serial No.1118 of 2002 before this Hon'ble High Court. Oblige

Yours faithfully

Nuruddin Ahmed
(Nuruddin Ahmed) 08.09.08
Advocate
Gauhati High Court

Enclosed:-

1. Office Memorandum dated 15.11.2002 issued by the Office of the Development Commissioner (Handloom), Government of India, Ministry of Textile, Udyog Bhawan, New Delhi.

2. Copy of the order dated 18.08.2008 passed in Execution Petition No.2 of 2008 in O.A. No. 133 of 2001 by the Hon'ble Tribunal, Guwahati Bench, Guwahati.

The SL no. 1118/02 as mentioned in your petition belongs to ITA case as reported by the filing section (Copy enclosed)

The report already furnished vide this registry's memo No W.A. No 4660/WA dt 14/12/07 to the Director, Govt. of India, Ministry of Textiles, Weaver Service Centre - II, HT Campus, Ahty - 781022 (Copy enclosed)

2/9/08
Asst. Registrar (Bench)
GAUHATI HIGH COURT
GUWAHATI

— 4 —
No.C-18014/1/2001/DC(HL)/E.II

GOVERNMENT OF INDIA

MINISTRY OF TEXTILES

OFFICE OF THE DEVELOPMENT COMMISSIONER (HANDLOOS)

@@@

Udyog bhawan, New Delhi
Dated the 15th Nov'02

OFFICE MEMORANDUM

With reference to his representation dated 31st October, 2002, Shri Utpal Sutradhar, Carpenter in Weavers' Service Centre, Agartala is hereby informed that his request has sympathetically been considered by this office.

2. Since an Appeal under Article 226/227 of the Constitution, has already been filed by the Department on 2/9/2002, in the High Court of Assam at Guwahati vide Sl.No.1118 of 2002, the matter has become subjudiced before the Court of Law. Thus, no action can be taken at this stage, in the matter, until decision on the aforesaid Writ Petition is arrived.

S. Parana

(S. APARNA)

ADDL.DEVELOPMENT COMMISSIONER (HANDLOOMS)

10 SEP 2002

Copy to:-

गुवाहाटी न्यायाधीश
Guwahati Bench

2.
3.
4.

Sh.Utpal Sutradhar, Carpenter, Weavers' Service Centre, Agartala.
The Officer In-charge, Weavers' Service Centre, Agartala.
The Zonal Director, Weavers' Service Centre, Guahati.
Guard file.

S. Parana

(S. APARNA)

ADDL.DEVELOPMENT COMMISSIONER (HANDLOOMS)

File in Court on 18/9/02

Court Officer.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

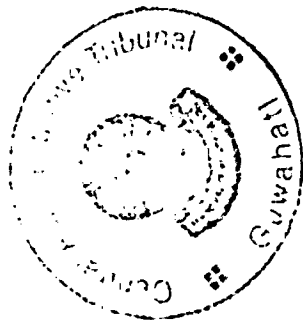
File No. 10/9/08
Court Office

1. Original Application No. _____
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. 12/08 M.O.A No. 133/2001
Utpal Sutradhar

Applicant(S)..... VS-Union Of India & Ors
Adil Ahmed, N. Ahmed, S. Das
Advocate for the Applicant(S): C.G.S.C.
Advocate for the Respondant(S): _____

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

18.08.2008	Mr N. Ahmed, learned Counsel appearing for the Applicant, is present. Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, on whom a copy of this Execution Petition was served, is not present in court today.
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TRUE COPY
प्रतिफल
(Signature)
अनुभाग अधिकारी 22/8/08
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी बेंच
Guwahati Bench
गुवाहाटी, गुवाहाटी-5

Mr N. Ahmed, learned Counsel appearing for the Applicant, undertakes to verify the matter from the Registry of the Hon'ble High Court at Guwahati pertaining to filing of the Writ Petition under Article 226/227 of the Constitution of the India on 02.09.2002 having serial No. 1111/2002 (as reported by the Department/Additional Development Commissioner [Handlooms] letter under Annexure 3 dated 15.11.2002) and intimate the result of the said inspection by the next date

Call this matter on 10.09.2008.

Sd/-
Hon'ble V.C.
Hon'ble Member (A)

-6-

File in Court on 10/9/07

Court Officer

THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM & ARUNACHAL PRADES)

HC. WA No. 4660/WA 2007 14/12/07

From Mrs. D. Borah,
Asstt. Registrar (I & E)

Gauhati High Court, Guwahati

To

The Director,
Government of India, Ministry of Textiles,
Weavers Service Centre- II HT Campus,
Jawahar Nagar, Khanapara, National Highway No-37, Gauhati-781022
Dated Guwahati, the 20

Subject:- Appeal in High Court in respect of Order dtd. 1.3.02 in
O.A. No. 133/01.

Reference:- Your letter No. WSC/GAU/HC/MS-12(7)/2002/2391, dtd. 10.11.07.

Sir,

With reference to the above, I am directed to
say that the serial Nos mentioned in your application
i.e 1118/02 belongs to ITA case as reported by the filing
section of this Hon'ble Court. The copy of the filing slip
is enclosed herewith.

I therefore you are asked to furnish the correct
serial no to place out the required case record.

By Order

Asstt. Registrar (I & E)

- 7 -

File in Court on..... 10/9/08
Court Officer.

37

केन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal
10 SEP
गुवाहाटी बेंच
Guwahati Bench

THE GAUHATI HIGH COURT AT GUWAHATI

frmBeared

Type ITA Category 10272

COMMISSIONER OF INCOME TAX vs M/S KAMRUP PAPER MILLS LTD.

1118 FilingDate 07/05/2003 Court Fee : 16.50

- | | | |
|----|--|-----|
| 2. | Filled within Limitation | Yes |
| | ConditionPetition (If any) | Yes |
| 3. | Related Information For Caveat Matching | Yes |
| 4. | Vakalatnama File | Yes |
| 5. | Certified copy of Order Judgement, If Required Filed | Yes |
| 6. | Affidavit/Verification in Order | Yes |
| 7. | Form in Proper Order | Yes |
| 8. | Defective (Yes/No) | Yes |

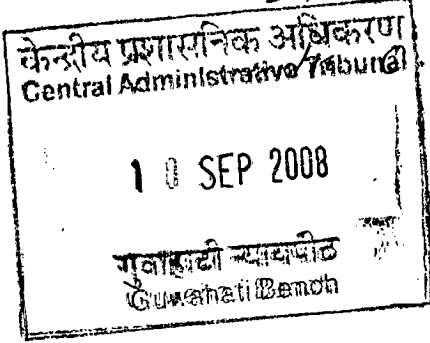
1. PAGE NO 16, 18 TO 22 ARE TO BE REPLACED BY CLEAR PAGES

P.T.C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GOWAHATI BENCH, GOWAHATI

Execution Petition No. 2 of 2008

39



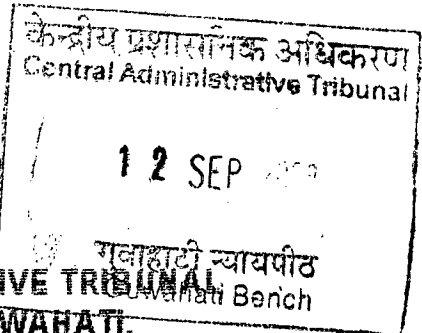
A. No. 133 of 2001

INDEX

File in Court on 10/9/08
Court Officer.

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Filed by
Nuruddin Ahmad
Advocate
10.09.08



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

EXECUTION PETITION No.2 / 2008
In O.A. No. 133 of 2001

UTPAL SUTRADHAR

- VERSUS -APPLICANT

THE UNION OF INDIA & ORS.

.....RESPONDENTS

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Filed by –

Gaurav Kumar Singh

Contd.../-

Copy received by
Nuruddin Ahmad
Advocate
12.09.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

EXECUTION PETITION No.2 / 2008
In O.A. No. 133 of 2001

Filed by
from
(P. VASU)
Director (Wvg.)
Assst. Director (Wvg.)
Kunangti
n-09.08 3.00 PM

UTPAL SUTRADHAR

- VERSUS -APPLICANT

THE UNION OF INDIA & ORS.

.....RESPONDENTS

An Affidavit-in-Reply to the execution petition
filed by the applicant.

MOST RESPECTFULLY SHEWETH: -

1. That a copy of the Execution Petition has been served upon the respondent and the respondent after going through the same has understood the content thereof.
2. That the respondent begs to state that the statements which are not specifically admitted by the respondent are deemed to be denied by them.
3. That the respondent begs to state that the present application is not maintainable as the same is barred by the law of limitation.

Contd.../-

12 SEP 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

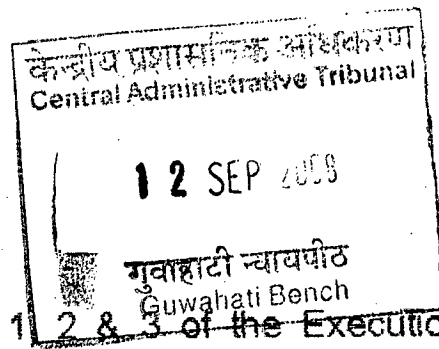
- 2 -

4. That the respondent begs to state that the applicant filed the original application No.133 of 2001 before this Hon'ble Tribunal. After hearing the parties the Hon'ble Tribunal was please to pass the judgment and order dated 01-03-2002 vide which the Hon'ble Tribunal allowed the application of the applicant, the copy of the same has been annexed as Annexure - 1 to the execution petition.

It was alleged in the execution petition that, the applicant filed representation before the respondent authorities and the respondent authorities vide their office memorandum dated 15-11-2002 informed the applicant that they preferred an Appeal under Article 226/227 of the Constitution of India before the Hon'ble High Court. Thereafter no whisper has been made by the petitioner regarding why he could not approach the Hon'ble Tribunal by filing execution petition. No explanation has been offered by the applicant in his execution petition why the delay was caused for filing the execution petition.

5. That the respondent begs to state that the applicant failed to explain the delay caused in filing the execution petition, infact, no endeavor has been made in explaining the delay except few vague statements in the execution petition. Although it was alleged by the applicant that he filed several representations but no particulars has been offered to substantiate the same. It is pertinent to mention here that the applicant himself admitted in the execution petition that till 07-02-2008, he has made no endeavor to verify from the High Court that whether any appeal was pending against the order dated 01-03-2002.

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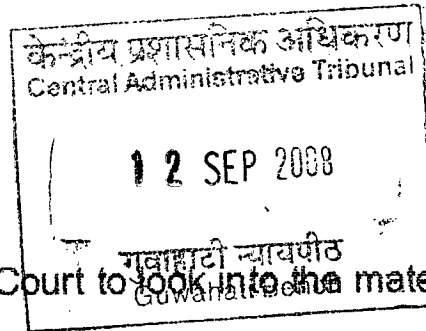
6. That with regard to the paragraph 1, 2 & 3 of the Execution Petition, the respondent begs to state that those are matters of records and the respondent does not admit anything which are not borne out of records.

7. That with regard to the statement made in paragraph 4 of the Execution Petition, the respondent begs to state that your respondent has engaged one Addl. CGSC in the High Court to file the Appeal before the High Court against the order dated 01-03-2002. The said Addl. CGSC vide letter dated 18-11-2002 furnished his bill along with a copy of the petition filed in the Hon'ble High Court.

A copy of the said letter is annexed herewith as
ANNEXURE - R1.

8. That with reference to the statement made in paragraph 4 of the Execution Petition the respondent further begs to state that on many occasion, your respondent issued various letters to the aforesaid Addl. CGSC who informed your respondent that he had filed a case before the Hon'ble High Court. The Respondent repeatedly requested the said counsel to furnish the detail of the said case but no reply has been furnished so far from the said counsel. Thereafter your respondent wrote a letter to the Registrar High Court vide letter dated 10-10-2007. In reply to that the Registrar informed your respondent that the serial No.1118 of 2002 belongs to ITA case and he also annexed the serial no and the filing date of the same. The respondent crave the leave of the Court to produce that letter at the time of hearing of the instant case. However the respondent requested the Asstt.

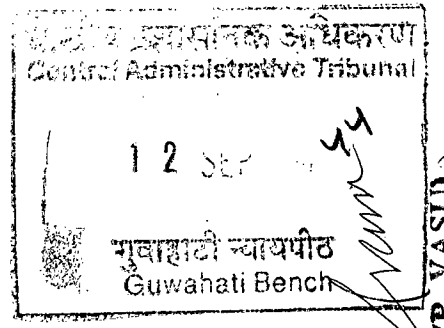
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Solicitor General of the Hon'ble High Court to look into the matter and if necessary file a fresh appeal before the Hon'ble High Court. The Respondent pursuing the matter and if necessary they will file another appeal before the Hon'ble High Court.

The respondent further begs to state that the applicant failed to explain the delay and failed to furnish any reason for which he could not file the execution petition within the limitation period. Although he has stated that he filed several representations before the respondent but no particulars were been furnished. Moreover it is settled proposition of law that repeated representation cannot extent the limitation beyond the statutory period. For which the execution petition is liable to be dismissed.

9. That with regard to the statement made in paragraph 5 of the execution petition, the respondent begs to state that the execution petition has been filed by the applicant after lapse of 5 years without explaining the delay for which the instant execution petition is not maintainable in law and is liable to be dismissed.
10. That the respondent begs to crave leave of the court to file addition reply to the execution petition if necessary.
11. That in view of the above, the instant execution petition is not maintainable in law, as well as, in fact and therefore the instant execution petition is liable to be dismissed.
12. That this affidavit-in-reply is made bonafide and for ends of justice.



(P. VASU)
Asstt. Director (Wvg.)

Under the circumstances it is prayed before Your Lordship that Your Lordship would graciously be pleased to hear the parties and after hearing be pleased to dismissed the execution petition and/or pass other order / orders as Your Lordship may deem fit and proper.

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

VERIFICATION

I, P. VASU, Son of C. PRAKASAM,
aged about ⁴² years, Resident of 8, Swanajpath, Swarajpur, K'pura, Guwahati-22
in the district of Kamrup..... working as Assistant Director Gr I (Wvg.)
and has been authorized by the respondent to verify the statement on
their behalf. I do hereby verify that the statement in paragraph 1 to 6 &
8 12 are true to my knowledge and those made in paragraph 7 being
matter of record are true to my information derived therefrom which I
believe to be true and the rest are my humble submission before this
Hon'ble Tribunal and I have not suppressed any material facts.

And, I sign this verification on this the 12th day of September
2008 at Guwahati.

SIGNATURE

(P. VASU)

Asstt. Director (Wvg.)

Government of India
Ministry of Textiles
Weavers Service Centre
I.I.T. Campus
Jawaharnagar, Khanapara
Guwahati-22.

B. M. Choudhury

Advocate

Additional Central Govt. Standing Counsel
Gauhati High Court, Guwahati-781 001.

Signature - R 1.
46
Old Ulubari Post Office,
Dr. B.K. Kakoti Road,
Ulubari Chariali,
Guwahati - 781 007
Phone: (0361) 548659 (R)
E-mail - bmchoudhury@rediffmail.com

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 SEP

Date 18.11.02
Guwahati Bench

To
The Director
Weavers' Service Centre
Jawahar Nagar
Khanapara 781022.

Sub: UOI vs Utpal Sutradhar

Ref:- WSC/Gau/HC/US-12 (70)/2002/3042

Date: 28.11.2002

Sir

Please find herewith a copy of petition filed in the
above mentioned case in the Hon'ble High Court.

Also find herewith my advance bill in triplicate for
your necessary action.

Thanking You

Yours faithfully

Bharadwaj Mrinal Choudhury
(Advocate)
18-11-02

Attested
P. VASU

Asstt. Director (WVS)

Government of India
Ministry of Textiles
Weavers Service Centre
Jawahar Nagar
Khanapara 781022.

DISTRICT - KAMRUP

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

(WRIT APPELLATE JURISDICTION)

WRIT APPEAL NO.

Code no. 10237

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 St

01/2002 न्यायपीठ
Guwahati Bench

IN THE MATTER OF;

1. The Union of India represented
by the Development
Commissioner for Handloom,
Udyog Bhiwan, Ministry
Textiles, Govt. of India, New
Delhi - 110011.
2. The Director, Weavers' Service
Centre, Ministry of Textiles,
Indian Institute of Handloom
Technology, Campus, Jawahar
Nagar, Khanapara, Guwahati-
781022.
3. The Deputy Director, Weavers'
Service Centre, Gukhlabari,
Agartala-799006.

Sl. no. 1118/02
Dt. 2-9-02

Attested,
[Signature]

(P. VASU)
Asstt. Director (Wvg.)
Government of India
Ministry of Textiles
Weavers Service Centre
I.I.H.T. Campus
Jawaharnagar, Khanapara
Guwahati - 22

8-
4. Assistant Director, Office of
Development Commissioner for
Handlooms, Govt. of India, Ministry
of Textiles, Udyog Bhawan, New
Delhi-110011.

.....APPELLANTS

Vs

Shri Utpal Sutradhar s/o Late
Dinabandhu Sutradhar of West
Pratapgar, P.S. West Agartala, P.O.
Arundhuti Nagar, Agartala, West
Tripura - now working as Carpenter
under the Deputy Director, Weaving
Service Centre, Ministry of
Textiles, Agartala, Tripura.

.....Respondent

IN THE MATTER OF:

Original Application No. 133 of 2001

Shri Utpal Sutradhar S/o Late
Dinabandhu Sutradhar of West
Pratapgar, P.S. West Agartala, P.O.
Arundhuti Nagar, Agartala, West
Tripura now working as Carpenter
under the Deputy Director, Weaving
Service Centre, Ministry of
Textiles, Agartala, Tripura.

.....APPLICANT

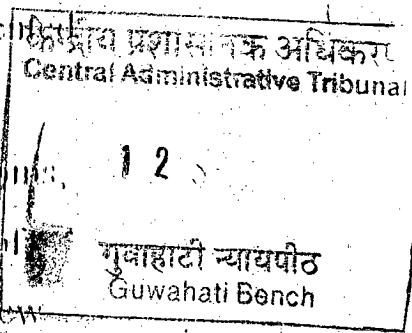
(In original application)

Attested,
from

(P. VASU)
Asstt. Director (Wvg.)

164/1-47 61

1. The Union of India represented
by the Development
Commissioner for Handlooms,
Udyog Bhawan, Ministry of
Textiles, Govt. of India, New
Delhi-110011.



2. The Director, Weavers' Service
Centre, Ministry of Textiles,
Indian Institute of Handloom
Technology Campus, Jawahar
Nagar, Khanapara, Guwahati
781022.
3. The Deputy Director, Weavers'
Service Centre, Gurkha Basti,
Agartala-799006.
4. Assistant Director, Office of the
Development Commissioner for
Handlooms, Govt. of India,
Ministry of Textiles, Udyog
Bhawan, New Delhi-110011.

...RESPONDENT

(In original application)

*Attested
from*

(P. VASU)
Asstt. Director (Weav.)



AND

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IN THE MATTER OF:

Writ Appeal presented against the
Judgement and Order dated 1.3.02 in
Original Application No.133 of
2001, passed by the learned Vice-
Chairman, Central Administrative
Tribunal, Guwahati Bench.

The Memorandum of Appeal of the Appellants,

MOST RESPECTFULLY SUBMITTED;

1.0 FACTS OF THE CASE :

1.1. The Respondent as Applicant (in Original Application) filed an application before the Central Administrative Tribunal, Guwahati Bench, which was registered as Original Application No.133 of 2001 on 3.8.2001, raising disputes relating to the regularisation of periods spent in study and also legality of the Order dated 28.2.2001 refixing the substantive date of appointment of the Respondent Applicant.

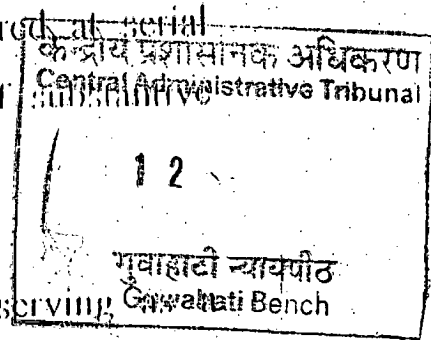
1.2 That as it transpires from the records, the Respondent-Applicant was appointed as a Carpenter in a Group-C post in the Weavers' Service Centre, Agartala against the quota earmarked for the physically handicapped vide the Order dated 3-1-88, with effect from 7-12-87. By an Order dated 6-6-88 persons working in the Weavers' Service Centres

*Advised
From*

6-6-88
P. VASU
Asst. Director (P.W.S.)

under Eastern Zone were appointed in substantive capacity.

The name of the Respondent-Applicant appeared at serial No.7 in the list of carpenters and the date of appointment was shown as 1-4-1988.



1.3 That while the Respondent-Applicant was serving as Carpenter, the Respondent-Applicant applied for admission to the 3 years Diploma in Handloom Technology course in the Indian Institute of Handloom Technology at Varanasi, on non-stipendiary basis. Thereafter the Appellant authorities allowed the Respondent-Applicant for such studies.

1.4 That after completion of such studies, the Respondent-Applicant joined in his service under the Appellant authorities.

1.5 That the Appellants beg to state that office Order No. WSC/GAU/ADMN/1(27)/PART III/94/1263 dated 6-6-95 was erroneously issued making the Respondent-Applicant regular and such order was issued through over-sight and due to bonafide mistake. When the matter came to the notice of the authorities, the Order dated 6-6-95 was corrected by issuing a subsequent order. It is further submitted that the application of the Respondent-Applicant for admission in Diploma in Handloom Technology was simply forwarded to the Development Commissioner for Handlooms, Govt. of India, New Delhi on non-stipendiary basis at his own interest and risk, although such Diploma course has no relation with the nature of duty of the Respondent-Applicant in any way. It is further submitted that the application of the Respondent-

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(P. VASU)
Asstt. Director (Nvg.)

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Applicant was simply forwarded with no recommendation to the said Development Commissioner. It is further stated that the Respondent-Applciant applied for study leave but study leave was not granted by the competent authority vide Order No.J-11011/5/88/E.II/DCH dated 15/16-7-1992 and as per the Leave Rules applicable to the Respondent-Applciant, the Respondent-Applciant was not entitled to such leave as he had not completed 5 years regular service on 9-8-91 when he applied for such study leave. It is further submitted that the Respondent-Applciant joined in the organisation on 7-12-87. As such, the authority rightly declined to grant the study leave in favour of the Respondent-Applciant. Although the Respondent-Applciant applied for no-objection certificate and for formal Release Order but no such Release Order was issued in favour of the Respondent-Applciant. No-objection certificate was also not issued in favour of the Respondent-Applciant for above reason.

1.6 That the Appellants beg to state that the Respondent-Applciant was asked by the Zonal Director, Weavers' Service Centre, Guwahati to explain in what circumstances the Respondent-Applciant left Indian Institute of Handloom Technology, Varanasi without the permission of the Director of that Institute. From the record it reveals that the Respondent-Applciant sought leave for several days and Earned leave from 12-8-91 to 29-8-91 i.e. 18 days, which was granted. For the period from 30-8-91 to 10-10-91, Extra Ordinary Leave (without pay) for 42 days was also granted in favour of the Respondent-Applciant. Thus a total of 60 days leave was

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Asst. Director (Wvg.)

granted by the authorities. The Appellants further beg to state that the Respondent Applicant after availing of 60 days leave worked in the office from 11-10-91 to 8-11-91 and then left for Varanasi on 10-11-91. Thereafter, the Respondent-Applicant again joined duty on 5-5-92 after availing of 178 days Extra-ordinary leave (without pay) with effect from 9-11-91 to 4-5-92. The Respondent-Applicant worked in the office at Agartala from 5-5-92 to 21-7-92. For the period for which the Respondent-Applicant worked and the period for which leave due & admissible was granted, the Respondent-Applicant was paid salary.

1.7 The the Appellants beg to state that on 22-7-92, the Respondent-Applicant left for Varanasi and thereafter joined at his work in 1994 but in between no leave was granted to the Respondent-Applicant for the period from 5-5-92 to 5-5-94 and as such, no increment was granted in favour of the Respondent-Applicant. Thus the Respondent-Applicant, under the law, is liable to face consequence of break his service.

1.8 That with reference to the question of non-sanction of study leave, the Appellants beg to state that study leave can be granted to a Govt. servant who has satisfactorily completed the period of probation and has rendered not less than 5 years regular continuous service. In the instant case, the Respondent-Applicant who joined on the fore-noon of 7-12-87 and went for study with effect from 12-8-91, had not completed 5 years of regular continuous service and thus he

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Asst. Director (WVSU)

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Was not granted such study leave in terms of the existing rules and regulations applicable to the Respondent-Applicant.

1.9 That with reference to the question of non-sanction of increments of the Respondent-Applicant, the Appellants beg to state that the increment was stopped due to non-regularisation of the absence of the Respondent-Applicant from 5-5-92 to 5-5-94. The question of increment can be considered by the authorities only after the period of absence mentioned above is regularised under the existing rules and regulations

2.0 CONTENTION OF THE RESPONDENT-APPLICANT BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

2.1 That the contention of the Respondent-Applicant before the Central Administrative Tribunal was that the Appellants authorities acted in most illegal fashion overlooking the relevant consideration of the Respondent-Applicant. It was submitted before the Central Administrative Tribunal that for undergoing the Diploma in Handloom Technology, the Respondent-Applicant applied through proper channel and his application was forwarded for such studies and in due course the Respondent-Applicant was recommended for granting admission on non-stipendiary basis as per the Order of the Appellants authorities and also issued in public interest and that there is no jurisdiction for not giving the Respondent-Applicant study leave as applicable.

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(P. VASU)
Asstt. Director (Wvg.)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
52
गुवाहाटी ब्याचपीठ
Guwahati Bench

3.0 THE CONTENTION OF THE APPELLANTS BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

3.1 That the contention of the Appellants before the Central Administrative Tribunal was that the Appellant authorities rightly rejected the study leave of the Respondent-Applicant as the Respondent-Applicant did not complete the 5 years regular continuous service and period of probation by referring the rules relating to conditions for grant of study leave under Chapter VI of Central Civil Services (Leave) Rules, 1972 which provides for grant of study leave. It was further submitted that due to non-sanction of study leave, the necessary orders for increment could not be issued to the Respondent-Applicant by the Appellant authority.

4.0 CONCLUSIONS AND DECISIONS OF THE LEARNED CENTRAL ADMINISTRATIVE TRIBUNAL.

4.1 The learned Vice-Chairman of the Central Administrative Tribunal came to the conclusion that admittedly the application of the Respondent-Applicant was processed and thereafter the competent authority recommended the Respondent-Applicant for taking admission on non-stipendiary basis, naturally when the Order was issued the Respondent-Applicant joined the course with the knowledge of the Appellant authorities. In the circumstances the Appellant authorities instead of taking a contentious view

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(P. VASU)
Asstt. Director (WV&D)

ought to have looked into the substance of the rules and necessarily grant the Respondent-Applicant the study leave.

**5.0 GROUNDS ON WHICH THE CONCLUSION OF THE
LEARNED CENTRAL ADMINISTRATIVE
TRIBUNAL ARE CHALLENGED.**

5.1 For that it is most respectfully submitted that the learned Tribunal committed manifest error of facts and law holding the field while passing the impugned Judgement.

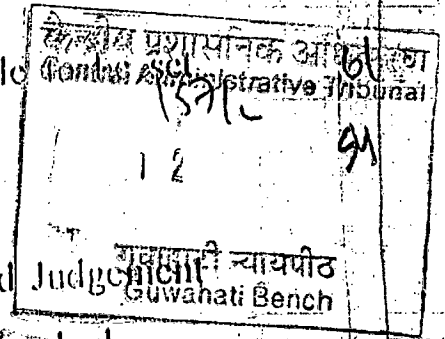
5.2 For that in the instant case it is an admitted fact that the Respondent-Applicant did not complete five years regular continuous service and period of probation, as such he was not entitled for study leave for which the impugned Judgement is bad in law and liable to be set aside and quashed.

5.3 For that it is an admitted fact that as the Respondent-Applicant is not entitled for study leave under the Central Civil Services (Leave) Rules, 1972 in the present circumstances, so the question of getting increment does not arise due to break of service for which the impugned Judgement is bad in law and is liable to be set aside and quashed.

5.4 For that the learned Tribunal passed the impugned Judgement without considering the relevant rules and regulation regarding the study leave under the Central Civil Service

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(P. VASU)
Asst. Director (Wvg.)

(Leave) Rules, 1972 for which the same is liable to be set aside and quashed.



5.5 For that in any view of the matter the impugned Judgement and Order is bad and is liable to be set aside and quashed.

5.6 For that in view of the extent Recruitment Rules the date of substantive appointment in respect of Respondent Applicant be upheld as 7-6-1990 and for that the impugned Judgement and Order passed by the learned Tribunal is bad and is liable to be set aside and quashed.

6.0 RELIEF SOUGHT FOR IN THE INSTANT APPEAL.

In the premises aforesaid, it is prayed that the impugned Judgement and Order dated 1-3-2002 passed by the learned Central Administrative Tribunal, Guwahati Bench in Original Application No.133 of 2001 may be set aside and quashed,

and

it is further prayed that pending disposal of the instant appeal, the operation of the impugned Judgement and Order dated 1-3-02 passed by the learned Central Administrative Tribunal, Guwahati Bench in the Original Application No.133 of 2001

*Assessed
from*

(P. VASU)
Asst. Dir. (P.V.)

may be stayed otherwise the instant
appeal will be infructuous.

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

Place: GUWAHATI
Dated: 2nd September
August 2002

APPELLANT

Dr. P. L. SARKAR
(Advocate)

THROUGH COUNSEL

(B.M. CHOUDHURY)

ADDL. CENTRAL GOVT. STANDING COUNSEL

VERIFICATION

I, Bhardwaj Mrinal Choudhury, Advocate, Addl. Central Govt.
Standing Counsel, for the Appellants do hereby certify that the
grounds set forth herein above are good grounds of appeal and I
undertake to support the same at the time of hearing.

(B.M. CHOUDHURY)
Advocate

Attested from
P. VASU
Asst. Director (Wvo.)
Government of India
Ministry of Textiles
Weavers Service Centre
I.I.T. Campus
Jawaharnagar, Khenapara
Guwahati-22.