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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

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SECTION OFFICER (Judl.)

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FORM NO. 4
(See Rule 42)

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

ORDER SHEET

Original APPLICATION NO ....160.... OF 2001.

Applicant (S) Sreenibash Banik

Respondent (S) U.O.I Tors

Advocate for Applicants (S) Adil Ahmed

Advocate for Respobdent (S) Case.

Notes of the Registry	Date	Order of the Tribunal
This application is in form and within time. C.F. ordonation Petition is filed not filed vide M.P. No. ..... C.F. for Rs. 50/- deposited vide IPO/BD No. 6G 792281 Dated 25-4-2001 Dy. Registrar.	27.4.2001	Heard Mr A. Ahmed, learned counsel for the applicant. The application is admitted. Call for the records, returnable by four weeks. Mr A. Deb Roy, learned Sr. C.G.S.C. receives notice on behalf of the respondents. List for orders on 1.6.01. Member Vice-Chairman
Requisite filed by the applicant's advocate. NS 26/4/01	nkm 1.6.01	The matter pertains to non-payment of disbursal pensionary benefit. The respondents have not yet filed written statement. Such matter should not go any further delay and accordingly, the case may be listed for hearing on 23-7-2001. In the meantime the respondents may file written statement within three weeks from today. NS 30/4/01 Vice-Chairman
3/5/2001 Notice is prepared and sent to D/section for issuing to the R-1 to 4. 1629 to 1631 dtd 4/5/01 NS 3/5/2001	bb	
No written statement has been filed. 24.7.01		

O.A. 160 of 2001

25.7.01 Judgment delivered in open Court.

Kept in separate sheets. Application is disposed of. No costs.

Vice-Chairman

lm

30.7.2001

Copy of the Judgment has been sent to the Deptt. for issuing it. Same to the L/Advocate for the parties.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. **160 of 2001**

Date of Decision **25.7.01**

Srinibash Banik

---------- Petitioner(S)

Mr.A,Ahmed

---------- Advocate for the Petitioner(s)

-Versus-

Union of India & Ors.

---------- Respondent(s)

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

---------- Advocate for the Respondent(s)

THE HON'BLE **MR.JUSTICE D.N.CHOWDHURY,VICE_CHAIRMAN**

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : **VICE_CHAIRMAN**

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 160 of 2001

Date of Order: This the 25th Day of July 2001

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

Sri Srinibash Banik,
S/O Late Hira Lal Banik,
Ex-Storekeeper-III
Canteen Store Department,
Ministry of Defence,
Narangi Depot,
Presently residing at
Rangagara Road,
Neae Women College,
P.O. Tinsukia,
PIN-786125, Assam ... Applicant

By Advocate Mr.Adil Ahmed

-Vs-

1. The Union of India,
represented by the Chairman,
Board of Administration,
Canteen Store Department,
Government of India,
Ministry of Defence,
ADELPHI 119 Maharshi Karve Road,
Bombay400020.

2. The General Manager,
Canteen Store Department,
Government of India,
Ministry of Defence
ADELPHI 119 Maharshi Karve
Road, Bombay-400020

3. The Controller of Defence
Accounts(Pension) for Gr.C/CSD/GP-P/xxii Section
Draupadighat, Allahabad-211001.

4. The Regional Manager,
Canteen Store Department,
Narangi Depot,
P.O. Satgaon,
Guwahati-781027 Respondents.

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

O R D E R.

CHOWDHURY J.V.C.:

The matter pertains to payment of Pensionary benefits, ~~the applicant~~ By an order dated 16.2.1993 the

Contd/-

applicant was dismissed from service from the date the order was served on him pursuance to the Departmental proceeding held in terms of the CCS(Classification Control and Appeal) Rules 1965. By the said order it was ordered for granting of one third of the pension to be paid to the applicant as compassionate allowance in terms of the Rule 41 of the Pension Rules. It was also ordered that his unauthorised absence till the dismissal from service was to be treated as extra-ordinary leave as per leave Rule. By this application the applicant moved this Tribunal for granting his pensionary benefits. At the time of hearing Mr.A.Deb Roy, Sr.C.G.S.C. produced a copy of the letter dated 23.7.2001 sent by the applicant Shri S.Bonik to the DGM(P&A), which read as follows:-

> "Reference your letter Nos.6/Pers/0-961/4489 dated 04/07/2001 and 6/Pers/0-916/4490 dated 04/07/2001.
>
> 2. Vide your above letter you have advised Narangi depot to pay a sum of Rs.90084.00 to me as arrears of Pension for the period 01/01/96 to 30/06/2001 for which act I think you.
>
> 3. Sir, actually I am entitle for pension W.E.F. March 93. You are therefore, requested to look into the matter and pay me the pension W.E.F. March 93 for which act of kindness I shall ever remain grateful to you."

The respondents thus advised Narangi Depot, to pay to the applicant an amount of Rs. 90084.00 as arrears of Pension for the period 01/01/96 to 30/06/2001. By the aforementioned letter the applicant also requested the authority to provide the benefit with effect from March '93. The prayer seems to be reasonable. By order dated 16th Feb'93 the applicant was dismissed from service

contd/-

from the date of service of the notice. The order of dismissal came into effect from the date of service. The order of pensionary benefit was provided in terms of the proviso one of Rules 41 of the CCS Pension Rules whereby the competent authority sanctioned the pension as if he had retired from service. His retirement will come into effect from the date of service of the notice.

Accordingly the applicant would also be entitled to the pensionary benefit from the date of service of the notice that is, from 1993. With the above observations the application stands disposed. There shall however, no order as to costs.

(D.N.CHOWDHURY)
VICE-CHAIRMAN

LM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 160 OF 2001.

Sri Srinibash Banik
..Applicant.

-Versus-

Union of India & Others
.. Respondents.

I N D E X

NS
26/4/2001.

Filed by
Advocate (ADIL AHMED)

Filed by Shri Srinibash Banik applicant through (Adv. AHMED) Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. OF 2001.

B E T W E E N

Sri Srinibash Banik,
S/o Late Hira Lal Banik,
Ex-Storekeeper-III,
Canteen Store Department,
Ministry of Defence,
Narengi Depot,
Presently residing at
Rangagara Road,
Near Women College,
P.O.- Tinsukia,
PIN-786125, Assam.

- Applicant.

-AND-

1. The Union Of India,
represented by the Chairman,
Board of Administration,
Canteen Store Department,
Government of India,
Ministry of Defence,
''ADELPHI'' 119 Maharshi Karve
Road, Bombay-400020.

Srinibash Banik.

2. The General Manager,
Canteen Store Department,
Government of India,
Ministry of Defence,
''ADELPHI'' 119 Maharshi Karve
Road, Bombay-400020.

3] The Controller of Defence
Accounts, (Pension) for GI/C/
CSD/GP-P/XXII Section Drau-
padighat, Allahabad-211001.

4] The Regional Manager,
Canteen Store Department,
Narengi Depot,
P.O.-Satgaon,
Guwahati-781027.

-Respondents.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This instant application is made against non-payment of Pension to the applicant who was dismissed from service of Canteen Store Department w.e.f. 06-03-1993 and also prayer for payment of pension, gratuity and other pensionary benefits with 18% interest from the date of his dismissal from service.

2. JURISDICTION OF THE TRIBUNAL

✓ Somibash Banik

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION

The applicant further declares that the application is limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4] FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble applicant a citizen of India and permanent Resident of Village Rangagora Road, Tinsukia, District-Tinsukia, Assam. As such, he is entitled to all the rights and privileges and protection granted by the Constitution of India. He is now aged about 60 years.

4.2. That your applicant begs to state that he was appointed as Lower Division Assistant on daily wage basis under the Canteen Store Department, Panitola on 20-09-1965. His Service was regularised on 1st January 1966. He was promoted to the post Store Keeper-III and posted at Narengi, Guwahati in the Canteen Store Department. He served there till 6th March 1993. He was dismissed from service w.e.f. 06-03-1993 vide Office Order No. 95307/Q/BOCCS dated 24th April 1994.

Somibash Banik.

Annexure-A is the photocopy of Office Order No. 95307/Q/BOCCS dated 24th April 1994.

4.3 That your applicant begs to state that the said dismissal order from his service dated 24-04-1994 it was stated that he will get one third of the pension to be paid as compassionate allowance as per rule 41 of Pension Rule. His unauthorized absent till the dismissal from service will be treated as extra-ordinary leave as per leave rule.

4.4 That your applicant begs to state that till today the Respondents have not taken any step for payment of pension and gratuity and other pensionary benefits to the applicant. In several occasions he has approached the appropriate authority for payment of his pensionary benefit. But the authorities have not taken any step to pay his pensionary benefits. The family members of the applicant are suffering from acute financial hardships. The applicant is suffering from old age ailments and he is very poor person to afford the medical expenses. Neither he has any other source of income nor cultivable agricultural land to support his family.

4.5 That your applicant begs to state that for last 7 (seven) years he has taken loans from his relatives and friends to survive his family members. Now the situation has been further deteriorated due to non-payment of earlier loans by the applicant. Now no-body

✓ Srinibash Banik

wants to give him further monetary help. Day by day, it is becoming very difficult for the applicant and his family members to survive in this world due to acute financial hardships. As such, he has been compelled to approach this Hon'ble Tribunal for seeking justice in this matter and also for early and immediate payment of pension with 18% interest from the due date.

4.6 That your applicant submits that he is running from pillar to post for getting his legitimate pensionary benefits but till today the respondents have not taken any sympathetic view in this matter.

4.7 That in view of the facts and circumstances it is a fit case for interference by the Hon'ble Tribunal to save the entire family members of the applicant from starvation.

4.8 That this application is filed bona fide and for the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, the action of the Respondents for not paying the pension to the applicant is illegal, arbitrary, mala fide and violative of the principles of natural justice.

5.2 For that, the Respondents have deprived the applicant from his legitimate claim of pension and as such the act of the Respondents is not maintainable in the eye of law.

✓ Somibash Banik.

5.3 For that, the Respondent have violated the fundamental rights of the applicant and as such the action of the Respondents is illegal, mala fide with a motive behind.

5.4 For that, the applicant's case is a genuine and also need a sympathetic consideration of the matter by the Respondents and hence the Respondents cannot deny it.

5.5 For the, in any view of the matter the action of the respondents are not sustainable and hence the same is liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant further declares that she has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any

Somibash Banik.

other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that your Lordship may be pleased to admit this petition and may call for records of the case, issue rule, calling upon the Respondents to show cause as to why the relief should not be given to the applicant and after hearing the parties on the cause or causes that may be shown and on perusal of records your Lordships may be pleased to grant the following relief to the applicant.

8.1 To direct the Respondents to issue pension to the applicant immediately without any further delay.

8.2 To direct the Respondents to pay 18% interest on the pension from due date till today to the applicant.

8.3 Cost of the application.

8.4 To pass any other relief or reliefs to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

✓ Somibash Banik

Pending disposal of the Original Application the applicant most respectfully prays for an interim order directing the Respondents to pay Provisional pension to the applicant till her regular pension is issued by the Respondents.

10. Application Is Filed Through Advocate.

11 Particulars of I.P.O.:
I.P.O. NO. 6G792281
Date Of Issue 25.4.2001
Issued from Guwahati G.P.O.
Payable at Guwahati.

12. LIST OF ENCLOSURES:

As stated above.

-Verification.

✓ Srinibash Banik.

VERIFICATION

I, Sri Srinibash Banik, S/o Late Hira Lal Banik, Ex-Storekeeper-III, Canteen Store Department, Ministry of Defence, Narengi Depot, Presently residing at Rangagora Road, Near Women College, P.O.- Tinsukia, PIN-786125, Assam do hereby solemnly verify that the statements made in paragraphs 4.1, 4.3 to 4.6 are true to my knowledge those made in paragraphs 4.2, ——— ——— are being matter of records are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification today on this the 25th day of April 2001.

Srinibash Banik

Declarant

Srinibash Banik

ANNEXURE-A

-18-

-11-

Tele:3011508

Secretariat
Board of Control
Canteen Services
L-1 Block
Room No.16
Church Road
NEW DELHI-110 001

No.95307/Q/BOCCS

24 Apr 94

ORDER

1. WHEREAS the disciplinary authority vide his orders No. 3/A-3/PN-1467/123 dated 16 Feb 93 in the disciplinary proceedings initiated under Chargesheet No.3/A-3/PN-1467/(71)/1075 dated 23-09-91, has imposed the following major penalty on Shri Srinibash Bonik, SK-III, CSD Depot, Narangi:-

(a) Dismissal from service from the date the order is served on him.

(b) One third of the pension to be paid as compassionate allowance as per rule 41 of pension rules.

(c) His unauthorised absence till the dismissal from service will be treated as 'Extra-ordinary Leave" as per leave rule.

2. AND WHEREAS Shri Srinibash Bonik stands dismissed from the CSD Service w.e.f. 06 Mar 93.

3. AND WHEREAS Shri Srinibash Bonik submitted an appeal dated 12 Aug 93 addressed to President of India against the orders of the Disciplinary Authority.

4. AND WHEREAS actually the appeal lies with QMG as Appellate Authority and the said authority has decided to treat the appeal dated 12 Aug 93 as having been addressed to him.

5. AND WHEREAS the said appeal has been considered by the Appellate Authority after taking into consideration the factual position of the case based on the evidence on the record and various issues raised by the appellant in his appeal and has come to the conclusion that the penalty imposed by the Disciplinary Authority on Shri Bonik is commensurate with the gravity of the misconduct committed by him.

---contd--2/-

Attested
Advocate

6. AND THEREFORE the appeal dated 12 Aug 93 submitted by Shri Srinibash Bonik, SK-III against the orders dated 16-02-93 of the Disciplinary Authority is hereby rejected.

(DEEPAK AJWANI)
Quartermaster General

Shri Srinibash Bonik
Mukhuli Sub-Post Office Complex
PO : MUKHUKI
GUWAHATI

through

CSD HO
BOMBAY-20 for information and further necessary action with reference to their letter No. 3/Pers/A-3/PN-1467/992 dated 24 Nov 93. The case file alongwith service book in respect of Shri Srinibash Bonik is returned herewith.

Attd
Advocate

Canteen Stores Department
"AGRANI"
119, Maharshi Karve Road
BOMBAY-400020

Ref.No:3/A-3/PN-1467/123

गोपनीय
CONFIDENTIAL

Date: 16 Feb'93.

WHEREAS disciplinary proceedings under Rule 14 of CCS(CCA) Rules, 1965 were initiated against PN-1467 Shri Srinibash Bonik, SK-III, CSD Depot Narangi vide memorandum No.3/A-3/PN-1467/(71)/1075 dated 23-09-91, for the following articles of charge :-

a) "That the said Shri Srinibash Bonik while functioning as SK-III of Group II at CSD Depot Narangi, the shortages were found for the gross value of Rs.81,354-54 as per the statement of quarter ending March 1991.

That the said Shri S Bonik by his above acts did not maintain integrity, thus exhibited conduct unbecoming of a government servant thereby violated Rule 3 of CCS(Conduct) Rules 1964."

b) "That the said Shri Srinibash Bonik, SK-III, CSD Depot, Narangi was unauthorisedly absent from duty w.e.f. 11-05-91 to 02-09-91 without prior intimation/sanction from the Competent Authority.

That the said Shri S Bonik by his above act did not maintain devotion to duty and exhibited conduct unbecoming of a government servant thereby violating Rule 3 of CCS(Conduct) Rules 1964."

2. AND WHEREAS, the Inquiry Officer after conducting the inquiry, has held that both the charges framed against the said Shri S Bonik are proved beyond doubt vide Inquiry Report dated 14-12-91. Copy of the Inquiry Report has been sent to Shri S Bonik vide our letter No.3/A-3/PN-1467/1522 dated 31-12-91. Shri S Bonik accepted all the charges framed against him in writing vide his letter dated 17-01-92 and also requested vide his letter dated 28-1-92, he will pay the amount for the shortage of Rs.81,354-54, but he did not pay any amount as agreed by him till date.

3. AND WHEREAS, the undersigned after careful consideration of the aforesaid Inquiry Report and Shri Bonik's request, alongwith all the evidences available on record agrees with the findings of the Inquiry Officer and find him guilty of grave misconduct thereby causing a net loss of Rs.72,678-31 to the Department.

4. NOW, THEREFORE, the undersigned in exercise of the powers conferred by Rule 15(4) of the aforesaid rule as amended and other enabling rules, imposes on the said Shri S Bonik, the following penalty :-

a) "DISMISSAL FROM SERVICE FROM THE DATE THE ORDER IS SERVED ON HIM."

b) "ONE-THIRD OF THE PENSION TO BE PAID AS COMPASSIONATE ALLOWANCE AS PER RULE 41 OF PENSION RULES."

c) "HIS UNAUTHORISED ABSENCE TILL THE DISMISSAL FROM SERVICE WILL BE TREATED AS 'EXTRAORDINARY LEAVE' AS PER LEAVE RULE."

(RAVI VARMA)
Major General
General Manager & Chairman
Board of Administration
Canteen Stores Department
(Disciplinary Authority)

Attested
Advocate

गोपनीय
CONFIDENTIAL