

GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO.4  
(See Rule 42)

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

ORDER SHEET

*Original* APPLICATION NO ....129....OF 2001.

Applicant (s) *Mrs - Dharma Kaita*

Respondent (s) *U.O.I Govt*

Advocate for Applicants (s) *B.K. Sharma, S. Sarma, U.K. Sharma*

Advocate for Respondent (s) *C.A. B.*

Notes of the Registry

Date

Order of the Tribunal

This application is in form

but no: 1

Petition filed vide

M.P.N. C.F.

for Rs 50/- deposited vide

IPO/BO No 66792313

Dated.....20.4.2001

23.5.01

*Dy. Registrar.*

bb

4.7.01

*Requisite has been filed.*

*NS 22/4/2001*

*NS 22/5/01*

The application is admitted. Call for the records.

List on 4-7-2001 for orders.

*CCU Sharma*  
Member

*[Signature]*  
Vice-Chairman

Further 4 weeks time is granted for filing of written statement. List on 3.8.01 for filing of written statement and further orders.

*CCU Sharma*  
Member

*[Signature]*  
Vice-Chairman

Written statement has been filed. The applicant may file rejoinder within three weeks from today. List on 31.8.2001 for further order.

*[Signature]*  
Vice-Chairman

*Requisite one copy short. 1m  
Hence notice prepared only Respondent  
No 1 & 2 by Regd A.D. & sent to  
S/Ls for filing the same vide 3.8.01  
S/No 2006 to 2010 dtd 30/5/01  
30/5/01.*

*(1) Notice served by hand  
on R.No. 3 and 4, Respondent  
No- 1 & 2 are still awaited.*

*NS 3.7.01*

trd

31.8.01

Written statement has been filed.  
The applicant may file rejoinder, if any,  
within two weeks from today.

List on 19.9.2001 for further  
orders.

By Order

bb

19.9.01

Since written statement has been  
filed, the case now be listed for  
hearing. The applicant may file rejoinder  
if any, within two weeks from today.

List on 12/10/01 for hearing.

Vice-Chairman

mb

12.10.01

Mr. B.C. Pathak on behalf of Mr. A. Deb  
Roy, learned Sr. C.G.S.C for the respondents  
<sup>submits</sup> suggests that the records are with Mr. A.  
Deb Roy, who has been ~~now~~ hospitalised.  
He prays for time.

Prayer accepted. The learned counsel  
for the applicant has no objection.

List on 7.12.2001 for hearing.

Member

bb

7.12.01

Sri S. Sarma, learned counsel appearing  
for the applicant states that he would  
like to file rejoinder.

<sup>hearing</sup>  
List on 4.1.2002 for ~~order~~. Mean-  
while, the applicant may file rejoinder.

Member (J)

Member (A)

mb

4.1.02

On the prayer Mr. A. Deb Roy, learned  
Sr. C.G.S.C. the case is adjourned. List  
on 6.2.2002 for hearing.

Vice-Chairman

mb

23.7.2001  
W/S has been  
submitted by the  
respondents.

*Don.*

No rejoinder has been  
filed.

*By*  
11.10.01

No rejoinder has been  
filed.

*By*  
6.12.01

No rejoinder has been  
filed.

*By*  
3.1.02

24.1.2002

W/S submitted  
by the respondents.

No rejoinder has  
been filed.

*By*  
5.2.02

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Notes of the Registry

Date

Order of the Tribunal

6.2.02

Judgment delivered in open Court. Kept in separate sheets. Application is allowed.

Vice-Chairman

15.2.2002

Copy of the order has been sent to the office for issuing the same to the applicant as well as to the Govt. Adv. for the replies etc

lm

WS  
12/2/02

WS 19/2

Notes of the Registry

Date

Order of the Tribunal

Notes of the Registry

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Notes of the Registry

Date

Order of the Tribunal

Order of the Tribunal

Date

Notes of the Registry

Order of the Tribunal

Date

Notes of the Registry

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 179 of 2001

Date of Decision.....6.2.2001

Mrs. Anima Kalita

-----Petitioner(S)

Mr.B.K.Sharma, Mr.S.Sarma, Ms.U. Das

-----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.CHOUDHURY, 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

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.179 of 2001

Date of Order: This the 6th Day of February, 2002.

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

1. Smti Anima Kalita,  
Presently working as Safaiwala,  
Kamakhya Sub-Post Office, Guwahati-781010 ... Applicant.

By Advocate Mr.B.K.Sharma, Mr.S.Sharma. Mrs. U.Das

-Vs-

1. Union of India,  
represented by the Secretary to the  
Government of India, Ministry of  
communication, New Delhi.
2. The Director General of Posts, New Delhi.
3. The Chief Post-master General, Assam Circle,  
Guwahati.
4. The Senior Superintendent of Post Offices,  
Guwahati Division, Guwahati-1
5. The Sub Post Master, Kamakhya Post Office,  
Guwahati-10.

... Respondents

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

O R D E R.

CHOUDHURY, J(V.C.):

This is the second round of litigation. There  
~~applicant earlier~~ was the regular Extra Departmental Delivery  
Agent(EDDA) in Kamakhya Post office, Kamakhya. He went on  
leave from 24.8.94 to 30.11.94. The applicant <sup>was</sup> allowed to  
work as substitute during his leave period. The regular  
incumbent did not return to his duty after expiry of leave.  
The applicant continued from 1.12.94 to 8.12.94. On 9.12.94  
the Assistant Superintendent of Post Offices, Guwahati  
West Sub Division issued the order No.A-1/Kamakhya dated  
9.12.94 permitting the applicant to work as EDDA, Kamakhya  
till joining of Shri Bipin Mahanta who was absenting from

contd/-

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duty without authority, pending further action as it deem fit. Thus the applicant continued to work as EDDA even after termination order dated 27.11.95. The applicant assailed the same before the Tribunal by way of O.A. which was registered in O.A.No.40 of 96. On consideration of the materials on record the Tribunal held that the applicant was not appointed against the post of EDDA, Kamakhya Sub-Post Office, she was permitted by the Respondents to do their works in the Sub Post office, for a particular period as Casual Employment. The applicant had worked under such situation from 1.12.1994 till 12.3.1996. Thus the applicant had put in 240 days continuous service in a year. The Respondents were accordingly directed to consider her case for conferment of temporary status to the applicant as may be admissible under the relevant rules or scheme. The Tribunal did not interfere with the order of termination, but the said termination order was treated as an artificial break which would not forfeit the past services of the applicant from being considered for the purpose of granting her temporary status. The Respondents were also directed to retain the applicant as a Casual employee in any other capacity under the control of Respondent No.4, the Senior Superintendent of Post offices, Guwahati Division, Guwahati without causing any monetary loss and to consider her case granting temporary status in due course. The applicant draw the attention of the matter to the authority in pursuance to the order of this Tribunal, the applicant had been relieved from the post of EDDA and she was absorbed in part time Safaiwala post with pay of EDDA with present pay protection with the order dated 22.9.98 since there was delay in conferment of temporary status and she

contd/-



was not paid the revised pay and DA with effect from January 1999 coupled with her 8 days duty allowance with effect from 6.10.98 to 13.10.98 and other consequential benefits. The applicant also submitted Legal Notice before the Chief Postmaster General, Assam Circle, Guwahati. Thereafter the Respondents by communication dated 23.2.99 informed the applicant that she was relieved on 6.10.98 as EDDA and joined on 14.10.98 as Safaiwala. Since she did not perform any duties for the period with effect from 7.10.98 to 13.10.98 and thereafter the Respondents by communication dated 23.2.99 informed the applicant that she was relieved on 6.10.98 as EDDA and joined on 14.10.98 as Safaiwala. Since she did not perform any duties for the period with effect from 7.10.98 to 13.10.98 and therefore she was not entitled for any allowance. The applicant submitted representation dated 9.4.99 to the Senior Supdt. of Post Offices, Guwahati Division, Guwahati praying for revised pay scale and payment of duty allowance for eight days with effect from 9.10.98 to 13.10.98 for redressed of the long pending grievance. Failing to get appropriate remedy the applicant thus moved this Tribunal seeking for a direction to give her revision of pay including the pay for the period with effect from 6.10.98 to 13.10.98.

The Respondents authority in his written statement stated that the applicant was conferred with the Temporary Status with effect from 22.9.98 and she was absorbed in part time Safaiwala post with pay of EDDA. Her claim for allowance for eight days from 7.10.98 to 3.10.99 was refused as she was not holding any post in the department

contd/-

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during the period. Accordingly the applicant was relieved from the post of EDDA on 6.10.98 and joined as Safaiwala on 14.10.98. She remained absent with effect from 7.10.98 to 13.10.98 wilfully. She was therefore not entitled to get the pre-revised scale for the said period. The Respondents also stated that she had been given the ~~pre-revised~~ ~~protec-~~ ~~tion of pay which was existed~~ since the Tribunal did not direct the Respondent No.4 to allow her future revision of pay and DA, vide order dated 28.8.98, therefore, the same was not granted.

I have heard Mr.S.Sarma learned counsel for the applicant and Mr.A.Deb Roy, Sr.C.G.S.C. for the Respondents. There is no justification for not granting the revised pay to the applicant. The revision of pay is equally applicable to all the employees. No direction is required from the Court or Tribunal to grant any relief to give effect to pay revision. For the other part of the reliefs, there is no dispute that the applicant was not paid her salary for the period from 6.10.98 to 13.10.98. As per order order of this Tribunal the Respondents were directed to retain the applicant as Casual employee in any other capacity under the Respondents without monetary loss. The Respondents were no justified in treating the period as wilful absence. It was duty of the Respondents to engage her in service.

The applicant is now conferred with temporary status. The Respondents are directed to provide her all the benefits that has flown from the scheme of Casual Labour (Grant of Temporary status and Regularisation) Scheme and to release her arrear pay as per the revised rate with effect from January 1999 and also eight days duty allowance for the period from

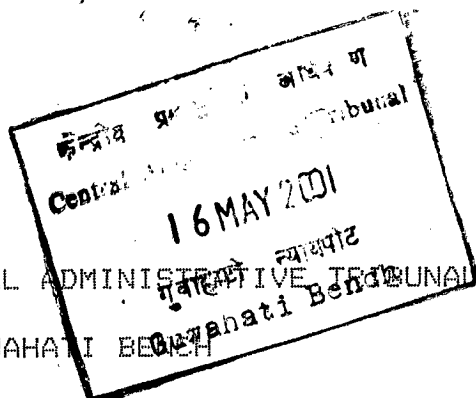
contd/-

6.10.98 to 13.10.98 and the revised pay scale of the EDDA with DA and all other benefits. The Respondents shall complete the exercise within two months from the date of receipt of this order.

In the facts and circumstances the application is allowed to the extent indicated above. No costs.

  
(D.N. CHOUDHURY)  
VICE-CHAIRMAN

LM



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

(An Application under Section 19 of the Administrative  
Tribunals Act, 1985).

Original Application No. 179 1999.

Smti Anima Kalita  
VS.  
U.O.I. & ORS.

I N D E X.

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~~~~~  
Filed by. S.Sarma. Advocate.  
File .C:\WS7\ANIMA.

Registration No.  
Date.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An application under Section 19 of the Central Administrative Tribunal Act, 1985)

O.A.No. 179 of 2001

Between

Smt. Anima Kalita,  
presently working as safaiwala,  
Kamakhya Sub-Post Office, Guwahati-781010

Applicant

Versus

1. Union of India,  
represented by the Secretary to the  
Government of India, Ministry of  
Communication, New Delhi.
2. The director General of Posts, New  
Delhi.
3. The Chief Post-master General, Assam  
Circle, Guwahati.
4. The Senior Superintendent of Post  
Offices, Guwahati Division, Guwahati-1.
5. The Sub Post Master, Kamakhya Post  
Office, Guwahati-10.

Respondents

DETAILS OF THE APPLICATION

1. Particulars of the orders against which the Application is made.

The present application is directed against the action of the respondents in not complying with the direction of the Hon'ble Tribunal passed in OA No. 40/96. This application is also directed against the various orders by which the benefit of the judgment and order dated 28.8.98 has been refused to the present applicant. The detailed particulars of the aforesaid impugned orders have been elaborately narrated in the head "Facts of the case".

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Filed by  
the applicant through  
Alaka Das,  
Advocate  
9/15/2001

Alaka

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2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

4.1. That the applicant being aggrieved by the action of the respondents in issuing the order of termination dated 27.11.95 and order dated 29.2.96 sponsoring the name of the one Sri Harapati Patowary without consideration her case was constrained to move the Hon'ble Tribunal by way of filing DA 40/96. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said DA vide its judgment and order dated 28.8.98 directing the respondents to grant her temporary status and the further direction was issued to the said respondents to retain her in service without any monetary loss. Pursuant to that judgment the respondents issued an order dated 22.9.98 by which she has been relieved from the post of EDDA and appointed her to the post safaiwala. On the other hand on the name of pay protection, her salary has been reduced to a scale which is not in existence. The effect or revision of pay and DA has also not been paid to the present applicant. Apart from that other consequential service benefits flowing from the aforesaid judgment and order dated 28.8.98 is yet to be extended to the present applicant. Applicant preferred numbers of representations praying for her temporary status and pay protection but till date same have not yield any

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result in positive, hence this application.

4.2 That the applicant is a citizen of India and a permanent resident of Guwahati and as such she is entitled to all the rights and protections as guaranteed by the Constitution of India and laws framed thereunder.

4.3. That during her service tenure as casual worker an offer came to her in the year 1994 for the post of Extra Departmental Delivery Agent (EDDA) in the said Post Office, as there was a need for her service. It is pertinent to mention here that the Department of Post adopted various circulars for regularisation and for grant of temporary status to the casual workers like that of the present applicant. Many of the casual workers similarly situated have been granted with the benefit of the said scheme ignoring her case. She made verbal requests to the respondents praying for extending the aforesaid benefits to her but nothing fruitful came out rather the respondents started a move to replace the service by an outsider. Situated thus, the applicant was constrained to move the Hon'ble Tribunal by way of filing OA No. 40/96 praying for regularisation as well as challenging the order of termination. The Hon'ble Tribunal after hearing the parties to the proceedings was pleased to dispose of the said OA directing the respondents to grant her the benefit of temporary status and a direction has been issued to the respondents to give due protection her salary with all consequential service benefits.

A copy of the said judgment and orders dated 28.8.98 is annexed herewith and marked as ANNEXURE-1

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4.4. That after the aforesaid judgment and order dated 28.8.98 the applicant with a forwarding submitted the same to the respondents for taking necessary steps in the matter. The respondents thereafter issued an order dated 22.9.98 by which the applicant has been relieved from EDDA and she has been engaged as part time safaiwala. However in the said order it has been stated that her pay will be protected.

A copy of the said order dated 22.9.98 is annexed herewith and marked as Annexure-2.

4.5. That defying the judgment and order dated 28.8.98 as well as the assurances given in the order dated 22.9.98, the respondents reduced the pay of the applicant to a scale which is not in existence. The said pay scale is a pre-revised pay scale belonging to contingency staff. It is pertinent to mention here that the Hon'ble Tribunal vide its judgment and order dated 28.8.98 made it clear that her pay should be protected. Earlier the applicant was drawing the pay scale of EDDA and now the respondents cannot reduce the same in the name of pay protection. Apart from that the applicant has been denied the benefit of revision of pay scale as well as DA.

4.6 That the applicant states that inspite of clear cut direction by this Hon'ble Tribunal regarding granting of temporary status, the respondents have not initiated any action towards extending the said benefit to her. Similarly situated employees have been granted with the benefit of the said scheme for grant of temporary status and regularisation ignoring her case and violating the judgment and order dated 28.8.98 passed by this Hon'ble Tribunal. Virtually nothing



X

has been complied with towards implementation of the said judgment.

4.7 That the applicant preferred numbers of representations to the concerned authority praying for extending the benefit of the said scheme as well as the implementation of the judgment and order dated 28.8.98 but nothing has been communicated to her. The aforesaid representations have been followed by a legal notice dated 17.5.99 demanding implementation of the judgment and order dated 28.8.98. Having not getting any fruitful result, she preferred contempt petition bearing No. 4/2000 before the Hon'ble Tribunal. However, the Hon'ble Tribunal vide its order dated 14.11.2000 closed the said contempt petition taking into consideration the fact of wrong compliance of the said judgment.

The applicant craves leave of this Hon'ble Tribunal to produce the said order dated 14.11.2000 at the time of hearing of the case.

A copy of the legal notice dated 17.5.99 is annexed herewith and marked as ANNEXURE-3.

4.8. That adding insult to her injury the respondents have now refused to grant her the revise rate of pay and DA. On the other hand, she has not been paid her salary with effect from 6.10.98 to 13.10.98. Presently the applicant is getting a absolute pay scale without any pay protection. Virtually after the judgment and order dated 28.8.98 the service of the applicant has been reverted to a lower rank without any reference to existing post and pay. On the other hand, the incumbent who joined the post held by the present

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applicant is drawing a higher pay scale than the present applicant.

4.9 That the applicant claiming the benefit of arrear pay and allowances preferred a representation dated 16.2.98 but the same has been rejected by the respondents by issuing an order dated 23.2.99

Copy of the said representation dated 16.12.98 is annexed herewith and marked as ANNEXURE-4.

4.10. That the applicant begs to state that against the Annexure-3 order dated 23.2.99 the applicant preferred a representation dated 9.4.99 but the same has not been replied to. The applicant thereafter made several requests but same yielded no result in positive.

A copy of the representation dated 9.4.99 is annexed herewith and marked as ANNEXURE-5.

4.11. That in nutshell the grievance of the applicant is in respect of non-compliance of judgment and order dated 28.8.98 passed in OA No. 40/96 by the respondents which has resulted gross hardship to the present applicant. Having no other alternative the applicant has come before this Hon'ble Tribunal praying for an appropriate direction towards the respondents for compliance of judgment and order dated 28.8.98 granting the full benefit enumerated in the said judgment.

## 5. Grounds for relief with legal provisions

5.1. For that prima facie the action/inaction of the respondents towards the granting of temporary status to the

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applicant as well as not giving the pay protection and arrear duty allowance is in gross violation of the principles of natural justice and administrative fair play.

5.2. For that in any view of the matter, the respondents should have given the benefit of temporary status to the applicant with further consequence of regularisation of the services and they ought not to have denied her due benefit.

5.3. For that the present practice of not giving the pay protection equivalent to EDDA scale and placing her in a pre-revised, non existing pay scale is by itself discriminatory.

5.4. For that in any view of the matter, the respondents should have released the DA with effect from January, 1999 and 8 days duty allowance with effect from 6.10.98 to 13.10.98 of the applicant as soon as possible.

5.5. For that in view of the judgment and order dated 28.9.98 passed by this Hon'ble Tribunal, the respondents should have given the all financial benefit equivalent to EDDA since her joining as safaiwala.

5.6. For that in any view of the matter, the action of the respondents in placing the applicant in a lower grade which is pre-revised and no longer in existence in the department is arbitrary and illegal.

5.7 For that the applicant would have been given the present revised pay scale of EDDA with allowances and temporary

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status as per direction of this Hon'ble Tribunal vide judgment and order dated 28.9.98. The failure of the respondents to do so has deprived the applicant of her legitimate expectation and thus caused her grave injury and injustice.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the Original Application.

6. Details of remedies exhausted:

The applicant declares that he has exhausted all the departmental remedies and there is no other alternative remedy available to her.

7. Matters not previously filed or pending before any other Court:

The applicant further declares that the matter regarding which this application has been made, is not pending before any court or any other Bench of the Tribunal.

8. Relief sought:

Under the facts and circumstances of the case the applicant prays that the instance application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

8.1. To direct the respondents to grant temporary status to the applicant with the consequence of

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regularisation of her service with immediate effect.

8.2 To direct the respondents to release her arrear duty allowances with effect from January 1999 and 8 days duty allowance with effect from 6.10.98 to 13.10.98 immediately.

8.3 To direct the respondents to extend the benefit of the aforesaid judgment to the applicant and to make the payment as equivalent to the current (revised) pay scale of the EDDA with all consequential benefits including the allowance and arrears from the date of her joining as safaiwala.

8.4 Costs of the application.

8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper.

9. Interim order prayed for:

No interim order prayed for at this stage

10. ....

This application has been filed through advocate.

11. Particulars of the IPO

|                  |                      |
|------------------|----------------------|
| 1. IPO No.       | : 66 792313          |
| 2. Date of Issue | : 30/4/2001          |
| 3. Issued from   | : G.P.O., Guwahati   |
| 4. Payable at    | : G.P.O., Guwahati.. |

12. List of enclosures

As stated in the INDEX.

A. K. Jha

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

I, Smti Anima Kalita, wife of Late I. Kalita, aged about 36, years, at present working as EDDA, in the Kamakhya Post Office, do hereby solemnly affirm and verify that the statements made in the paragraphs 1,2,3,4,41,42,43,46,48,49 are true to my knowledge and those made in paragraphs 43,44,47,49 & 410 are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 7th day of May, 2001.

S I G N A T U R E

*Smti Anima Kalita*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 40 of 1996.

Date of Order : This the 28th day of August, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Smt Anima Kalita  
C/O Late Chandradhar Kalita,  
P.O. Kamakhya, Guwahati  
at present working as EDDA  
under the respondent No.4

. . . Applicant

By Advocate Shri B.K.Sharma & S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary  
to the Government of India,  
Ministry of Communication,  
New Delhi.
2. The Director General of Posts,  
New Delhi.
3. The Chief Post Master General,  
Assam Circle, Guwahati.
4. The Sr.Superintendent of Post Offices,  
Guwahati Division, Guwahati-1.
5. Sub Post Master,  
Kamakhya Post Office,  
Kamakhya, Guwahati-10.
6. Harapati Patowari,  
C/O Lambadar Deka,  
Fatasil Ambari, Near Kali Mandir,  
Guwahati.

. . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C  
for respondents No.1 to 5, and Shri M.Deka  
for respondent No.6.

ORDER

G.L.SANGLYINE, ADMINISTRATIVE MEMBER,

The applicant works as an Extra Departmental Delivery Agent (EDDA for short) in Kamakhya Post Office, Kamakhya, Guwahati-10. The Assistant Superintendent of Post Offices, Guwahati West Sub-Division issued an order No.A-1/Kamakhya dated 27.11.1995 terminating the work of the applicant with immediate effect. The Assistant Superintendent of Post Office:

Guwahati West Sub-Division, Guwahati also issued order under Memo No.A-1/Kamakhya dated 29.2.1996 making provisional appointment of Shri Harapati Patowary, respondent No.6, to the post of Extra Departmental Delivery Agent of Kamakhya Post Office pending finalisation of disciplinary proceeding against Shri Bipin Chandra Mahanta or regular appointment whichever is earlier. The applicant felt aggrieved with the aforesaid orders and had submitted this Original Application. In this application the applicant prays that the aforesaid orders be set aside and quashed. She also prays for directions to the respondents to grant her temporary status leading to regularisation of her service and not to appoint any outsider to the post of EDDA of Kamakhya Post Office in her place. The respondents have contested the application. The official respondents as well as the respondent No.6 have submitted their written statements.

2. The brief facts of the case are :-

Shri Bipin Ch. Mahanta was the regular EDDA of Kamakhya Post Office. He availed leave from 24.8.94 to 30.11.94 and nominated the applicant, Smt Anima Kalita, to work as substitute during his leave period. Mahanta however did not return to his duty after expiry of leave. The applicant continued from 1.12.94 to 8.12.94. On 9.12.94 the Assistant Superintendent of Post Offices, Guwahati West Sub Division issued the order No.A-1/Kamakhya dated 9.12.94 permitting the applicant to work as EDDA, Kamakhya till joining of Shri Bipin Mahanta who was absenting from duty without authority, pending further action as deem fit. On the strength of the order the applicant continued to work as EDDA in the Sub Post Office till the terminating order dated 27.11.1995 was issued. However, it has been stated that even after the said order dated 27.11.95 the applicant continued to work as EDDA in the Post Office

Invested  
Advocate



even on the date of filing of this Original Application on 12.3.96. She is now continuing as EDDA by virtue of an interim order dated 13.3.96. On 12.12.95 the Assistant Superintendent of Post Offices notified to the Employment Exchanges at Bharalumukh and Pub-Saranian for sponsoring names of candidates to fill up the vacant post of EDDA at Kamakhya Sub Post Office which had fallen vacant temporarily. Four names were sponsored and Shri Harapati Patowari, respondent No.6, was selected and appointed. Annexure-5 order dated 29.2.1996 was issued in his favour. The name of the applicant was not communicated by the respondents to the Employment Exchanges and the Employment Exchanges also did not sponsor her name.

3. On hearing the learned counsel on both sides the first question to be considered is whether the applicant is entitled to temporary status which would lead to regularisation of her service and absorption in a regular establishment. Temporary status is granted to casual labourers. The contention of the respondents is that the applicant was only a substitute of a regular EDDA and therefore she is not entitled to claim for regular absorption in the department. On perusal of the relevant rules we understand what a substitute is in this context. A regular EDDA when he is proceeding on authorised leave or absence has to provide a substitute and arrange that his work is to be carried on by the substitute. This arrangement is however, with the written approval of the leave sanctioning authority. The substitute who performs the work receives the allowance/remuneration payable to the regular EDDA for such duration. The substitute is an agent of the EDDA concerned and the original EDDA is liable for action committed by the substitute provided by him. The regular EDDA may also be on unauthorised absence but he provided the substitute without the approval of the competent

authority. The rules/instructions also provide that if the absence from duty of the regular EDDA is likely to be indefinite, regular appointment of EDDA should be made immediately by appointing authority but the person so appointed need not necessarily be the substitute. Bipin Mahanta was granted leave for the period from 24.8.1994 to 30.11.1994 and for this period he had made arrangement and provided a substitute, namely, the applicant. Thus for this period the applicant was a substitute. Mahanta did not return to duty after expiry of leave and he had not made any further arrangement for a substitute for the period after the expiry of his leave. The applicant cannot therefore be held to be a substitute of the original EDDA after the expiry of leave of Mahanta. After 9.12.1994 specially the situation had changed completely. The applicant was not a substitute and she was not appointed as an EDDA but she was simply permitted to work as EDDA Kamakhya Sub Post Office till joining of Shri Bipin Ch. Mahanta who is absent from duty without authority, pending further action as deem fit. Her service was terminated with immediate effect on 27.11.1995 vide order dated 27.11.1995. Yet the respondents had continued to obtain service from her till the date of submission of this original Application. In the above facts and circumstances we are of the view that the applicant was not a substitute after the expiry of leave of Mahanta. Thereafter she was not appointed against the post of EDDA Kamakhya Sub Post Office. Nevertheless she was permitted by the respondents to do their works in the Sub Post Office on payment. In our opinion such arrangement is of the nature of casual employment. The applicant had worked under such situation from 1.12.1994 till 12.3.1996. Thus the applicant had put in 240 days continuous service in a year. In the circumstances we direct the respondents to consider conferring

temporary status to the applicant as may be admissible under the relevant rules or scheme. The applicant is at liberty to agitate further before appropriate authority if she is aggrieved by the order of the respondents. The next question is whether the termination order dated 27.11.1995 is sustainable. As already mentioned hereinabove the applicant was no longer a substitute after 30.11.1994 and by the order dated 9.12.1994 she was not appointed as EDDA or was allowed to work as a substitute. No doubt she was permitted to work as EDDA till joining by Shri Bipin Ch. Mahanta. By this order no vested right of the applicant to the post of EDDA was created. Further, the aforesaid arrangement was without observing formalities and it had not subjected the applicant to the ED Agents (Conduct and Services) Rules 1964. Moreover, Mahanta had remained absent for a long time. In such circumstances it was administratively necessary for the respondents to bring to an end the arrangement and, in our view, the respondents were within their rights to terminate the arrangement and that they had done so bonafide. We do not find any reason to justify interference with the order of termination. The termination however is to be considered only as an artificial break which will not forfeit the past services of the applicant from being considered for the purpose of granting her temporary status. As stated earlier the termination has immediate effect but even after the order was issued the applicant continued to work. In the above mentioned facts and circumstances we direct the respondents to retain the applicant as a casual employee in any other capacity under the control of respondent No.4 without monetary loss and to consider granting her temporary status in due course.

4. In view of the findings and directions above we consider that it is not necessary to go into the question of legality or otherwise of the appointment of respondent

No.6 to the post of EDDA Kamakhya Sub Post Office.

5. The application is disposed of in the lines as indicated above.

No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

3

pg

Attested  
lebas  
Advocate.

Department of posts India.

Sr Supdt Of Post Offices,  
Guwahati West Sub Division.  
Guwahati- 781001.

No A-1/Kamakhya  
Dated at Guwahati the 22/9/98..ls2

In pursuance of the judgment passed by the Central Administrative Tribunal, Guwahati on 28/8/98 in connection with the CAT case No OA 40/96 and communicated by the Sr. Supdt. of Post offices vide letter No A2-34/Kamakhya dated 15/9/98/ and instruction dtd 21/9/98 the following orders are issued to have immediate effect.

(1) Smt. Anima Kalita (applicant of OA 40/96) who is performing the duties of EDDA at Kamakhya so should be relieved from the post of EDDA immediately.

(2) Smt. Anima Klita may be engaged as pt. safaiwala at Kamakhya so with present pay protection.

(3) Sri Harpati Patowari (respondent non 6) who was selected and appointed as EDDA on provisional basis vide this office memo of even no dtd. 29/2/96 may be allowed to join as EDDA Kamakhya (provisional) immediately.

Sd/=

Sr Supdt Of Post Offices,  
Guwahati West Sub Division.  
Guwahati- 781001.

Copy to

(1) The SPM Kamakhya. He will please hand over the copy of the order to Smt. Anima Kalita under receipt and relieve her from the post of EDDA of EDDA immediately.

(2) The Sr. PM/ Ghy G.P.O. for information and the copy of the judgment dtd 28/8/98 is enclosed/w for ready reference.

(3) Smt. Anima Kalita ,applicant of OA 40/96 for information.

(4) Sri Harpati Patowary, respondent no 6 of OA 40/96 for information. He will please join immediately.

(5) The SSPOS/Guwahati Dn. for kind information.

(6) Spare.

**Attested**  
*h Das*  
**Advocate.**

(3)

**SIDDHARTHA SARMA**

Advocate

-18-

M. A. Road, Rehabari.

Guwahati - 781008

Phone No. - 522995

Date.....17.5.99.....

Ref:.....

REGD/AD

To

The Chief Postmaster General

Assam Circle, Meghdoot Bhawan

Guwahati-1.

Sub: Legal Notice.

Sir,

Upon authority and as per the instruction of my client Smt. Anima Kaliata, W/o Late Chandra Dhar Kalita, at present working as Safaiwala, in the Kamakhya Sub-Post Office, Guwahati, I give you this notice as follows:

That being aggrieved by the action of the Department for non consideration of her case for regularisation, my client aforesaid was constrained to move the Hon'ble Tribunal by way of filing O.A.No.40/96. The said O.A. was came up for hearing on 28.8.98 and after hearing the parties the Hon'ble Tribunal was pleased to dispose of the matter directing you to retain her as

Attested

*[Signature]*  
Advocate.

- 19 -

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casual employee till consideration of her case under the scheme of temporary status and regularisation. However, the Hon'ble Tribunal was further pleased to protect the interest of my client so far it relates to monetary loss is concerned.

That after the pronouncement of the aforesaid judgement my client has been accommodated as Safaiwala but other parts of the direction mentioned above are yet to be implemented. It is noteworthy to mention here that till date no process has been initiated for granting of temporary status to my client. On the other hand the direction mentioned in the said order so far it relates to monetary loss is concerned, my client is still incurring a loss such as revised pay & D.A. with effect from January 1999 coupled with her 8 days duty allowance w.e.f. 6.10.98 to 13.10.98 and other consequential benefits.

That the order of the Hon'ble Tribunal is clear and hence there should not be any dispute regarding the claims made by my client. It is also crystal clear that the aforesaid part of the direction given by the Hon'ble Tribunal is yet to be implemented by you which has made you liable for contempt of court's proceeding. My client has made nos. of representations but same are yet to yield any result.

In view of the above I give you this Notice making a demand that my client aforesaid be granted the temporary status and after granting the same to regularise her service and to pay her the revised pay & DA w.e.f. January 1999 and aforesaid 8 days duty pay with interest @18% P.A. within 30 days from the date of receipt of the notice failing which instruction of my client is

*Attested*  
*hddg*  
*An. note.*

to take appropriate legal action.

I hope and trust that there will be no such occasion for any further litigation.

Thanking you.

Sincerely yours.

(S.Sarma, Advocate)

Copy to:-

1. The Director General of Posts  
Dak Bhawan, New Delhi-110001.
2. The Sr. Supdt. of Post offices,  
Guwahati Division, Guwahati-781001.

(S.Sarma, Advocate)

*ludras*  
2/11/2008



DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE SR.SUPDT.OF POST OFFICES GH DN,  
GUWAHATI - 781 001.

Ref  
To,

Smt. Anima Kalita,  
PT/Safaiwala  
Kamakhya P.O.

NO. A2-34/Kamakhya,

Dated at Guwahati the, 23-2-99.

Sub : Drawal of PT/Allowance for the period 6-10-98 to 13-10-98

Ref : Yr. application dtd. 16-12-98.

With reference to the above noted subject it has revealed that you had been relieved on 6-10-98 as EDDA and joined on 14-10-98 as Safaiwala. Now it means that you did not perform any duties in any capacity for the period W.e.f. 7-10-98 to 13-10-98 and therefore not entitled for any allowance.

Hence your claim for the allowance of the period from 7-10-98 to 13-10-98 treated as closed here.

Sd/-  
Sr. Supdt. of Post Offices,  
Guwahati Division, Guwahati-781001.

Copy to:-

The SPM, Kamakhya SO for sending relieving and joining charge report immediately.

Sd/-  
Sr. Supdt. of Post Offices,  
Guwahati Division, Guwahati-781001.

Attested  
libas  
Advocate.

\* \* \*

To  
The Senior Supdt. of Post Offices,  
Guwahati Division,  
Guwahati-781001



Dated Kamakhya the 09-04-99

Ref : Your office letter No. A2-34/Kamakhya dt.23.2.99.

Respected Madam,

In continuation of my representation dt.12.3.99 having reference to your letter quoted above I would further request you fervantly to kindly take necessary steps for payment of my duty allowances for 8 days with effect from 06.10.98 to 13.10.98 and thus redress the long pending grievance of your lowest grade employees at an early date.

That Madam, the with-holding of my duty allowances as I apprehend is attributed to the malicious attitudes of the SPM Kamakhya who arbitrarily struck off my signatures in the attendance register of the office.

That Madam, incidentally, it is further mentioned that <sup>the</sup> effect of the Revised Pay scales as announced by the department was given to me upto 5.10.98 and thereafter it was stopped. It is reasonably held that the benefits of the Revised pay scales were denied to me from the date I was ordered to join as part time safaiwala, i.e from 6.10.98 onwards and it tends to show that the consequential benefits of the Revised pay granted upto 5.10.98 were abruptly cut short in clear, violation of the Hon'ble C.A.T's judgement dt.28.8.98 in OA No. 40/96 and thereby I was led to suffer monetary loss.

In the above mentioned situations, I would fervantly request your honour to kindly assess and judge the legitimacy of my grievance in the real perspectives and take necessary action so that I can draw my duty allowances as mentioned above as well as the the arrear amount of Reversed pay with effect from 06.01.98 upto date and thereby bestow justice on your poor widow employee.

Your judicious and favourable action in the matter of my claims will be accepted in terms of profound gratitudes.

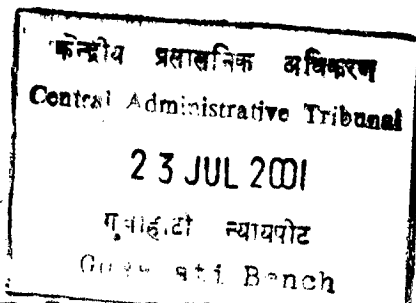
I ever remain,

Yours faithfully,

*Anima Kalita*

(Smt. Anima Kalita)  
Part time Safaiwala  
Kamakhya P.O. -781010.

*Animesh  
Advocate*



3507/23/7/01  
(A. DEBROY)  
Sr. C. O. S. C.  
G. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI.

O.A. NO. 179 OF 2001

Smti. Anima Kalita

- Vs -

Union of India and others.

- And -

In the matter of :

Written statements submitted by  
the respondents.

The respondents beg to submit a brief history  
of the case which may be treated as a part of  
the written statement.

(BRIEF HISTORY OF THE CASE )

There is a post of EDDA ( Extra Departmental  
Delivery Agent ) at Kamakhya sub-post office. The regular  
incumbent one Shri Bipin Ch. Mahanta availed leave for a  
period of 90 days from 24.08.94 to 30.11.94, the applicant  
Smti. Anima Kalita was nominated as the substitute by said  
Shri Mahanta to work as EDDA at his own responsibility in -  
terms of instructions 4 of Director General's instruction  
inserted below Rules 1964.

On expiry of leave said Shri Mahanta did not  
resume his duty. The appointing authority ( Asstt. Superin-  
tendent of Post Offices, West Guwahati Sub Division ) issued

-2-

an order on 09.12.94 to officiate the substitute ( Smti. Anima-Kalita ) as EDDA till the original incumbent resume duty or any action is taken as deem fit.

The arrangement made on 09.12.94 was ordered to be terminated by the appointing authority on 27.11.95 and Anima Kalita has gone to CAT and CAT passed an order dated 28.08.98 that she should be given a temporary status without monetary loss. Accordingly the CAT's order was implemented immediately on 22.09.98 and she was absorbed in part time safaiwala post with pay of EDDA ( i.e. pay entitlement of EDDA at the time of CAT's final order ).

Later the petitioner has requested the department to pay her revised allowances of ED employee ( pay of ED employees was revised in the year 1999 i.e. much later than CAT's final order and also implementation of final order ). But department rejected her application as she was not entitled. She also claimed for allowance for 8 days from 7.10.98 to 3.10.99 but the same was refused to her as she was not holding any post in the department.

#### PARAWISE COMMENTS

1. That with regard to para 1, the respondents beg to state that as per Hon'ble CAT order dated 28.8.98 against O.A. No. 40/96 the order was carried out and implemented.
2. That with regard to para 2 & 3, the respondents beg to offer no comments.
3. That with regard to para 4.1, the respondents beg to state that the applicant had been absorbed as part

as part time safaiwala giving temporary status without monetary loss as per Hon'ble CAT DIRECTION. She had been given the pre-revised scale of EDDA with present pay protection and not allowed to her any future revision of pay and other allowances as per C.A.T. verdict dated 28.8.98.

4. That with regard to para 4.2, the respondents beg to offer no comments.

5. That with regard to para 4.3, the respondents beg to state that the casual worker could not be engaged to officiate as EDDA and that irregular order was terminated vide letter dated 27.11.95 and thus the claim of the applicant as casual labour does not exist. The applicant after being terminated proceeded to Hon'ble CAT under O.A. No. 40/96 and the order of CAT since been implemented by the respondent No.4.

6. That with regard to para 4.4, the respondents beg to state that in pursuance of the C.A.T. judgement dated 28.8.98 and communicated by respondent no.4 the ASPOs (West) directed vide his letter dated 22.9.98 to relieve Smt. Anima - Kalita from the post of EDDA, Kamakhya and she had been engaged as part time Safaiwala with present pay protection.

7. That with regard to para 4.5, the respondents beg to state that she had been given the pre-revised protection of pay which was existed. Though she had been engaged as safaiwala the pay of EDDA, which was enjoyed by her protected as per Hon'ble C.A.T. order dated 28.8.98 . The Hon'ble C.A.T.

not directed the respondent no.4 to allow her future revision of pay and D.A. vide order dated 28.8.98.

8. That with regard to para 4.6, the respondents beg to state that since her officiating period as EDDA was irregular and subsequently terminated also vide letter dated 27.11.95 the question of ignoring regularisation as well as violation of Hon'ble Judgement does not arise.

9. That with regard to para 4.7, the respondents beg to state that the Hon'ble CAT order dated 28.8.98 had been implemented with a communication to the applicant. Regarding contempt petition no. 4/2000 in DA 40/96 the Hon'ble CAT issued order dated 14.11.2000 that there was no wilful violation of respondent no.4 and the disposed the contempt position in favour of Department.

10. That with regard to para 4.8, the respondents beg to state that there was no wilfull violation of C.A.T. order by the respondent and the petition disposed of in Deptt. favour on 14.11.2000. The Hon'ble C.A.T. not ordered to allow the applicant future pay and D.A. protection. The applicant relieved from the post of EDDA on 6.10.98 and joined as Safaiwala on 14.10.98. She remained absence w.e.f. 7.10.98 to 13.10.98 wilfully and the claim of pay to her absent period was totally baseless and un realistic. She had been given pre-revised ~~xx~~ scale and not comparable to her pay to any other receipant of revised pay holder.

11. That with regard to para 4.9, the respondents beg to offer no comments.

-5-

12. That with regard to para 4.10, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.8 above.
13. That with regard to para 4.11, the respondents beg to state that the implemented as per C.A.T. Judgement dated 28.8.98 in O.A. 40/96. No comments on second line.
14. That with regard to para 5.1, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.1 and 4.5 above.
15. That with regard to para 5.2, the respondents beg to state that the respondent could not violate Rules and departmental procedures and acted as per rules.
16. That with regard to para 5.3, the respondents beg to ~~state that~~ submit the comments what have already made against the foregoing paragraph 4.1 above.
17. That with regard to para 5.4, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.8 above.
18. That with regard to para 5.6 and 5.7, the respondent beg to offer no comments.
19. That with regard to para 6, 7, 8 and 8.1, the respondent beg to offer no comments.
20. That with regard to para 8.2, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.5 above.

-6-

21. That with regard to para 8.3, 8.4, 8.5, 9, 10 and 11, the respondents beg to offer no comments.

### VERIFICATION

I, Shri/Mrs B Radhika Chakravarty  
SSP, Guwahati being authorised do hereby verify and  
 declare that the statements made in this written statement  
 are true to my knowledge, information and believe and I have  
 not suppressed any material fact.

And I sign this verification on this 9<sup>th</sup>  
 day of July 2001.

B. Radhika  
Declarant.

वरिष्ठ पोस्टल अधिकारी  
 गुवाहाटी मंडल गुवाहाटी 781001  
 Sr. Superintendent of Post Offices  
 Guwahati Division, Guwahati-781001



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

O.A.NO. 179 OF 2001

Smti Anima Kalita.

- VS -

Union of India and Others.

- AND -

IN THE MATTER OF ::

Written statements submitted by  
the Respondents.

The Respondents beg to submit a Brief History  
of the case which may be treated as a part of the  
Written Statement.

( BRIEF HISTORY OF THE CASE )

There is a post of EDDA (Extra Departmental  
Delivery Agent) at Kamakhya sub - post office. The  
regular incumbent one Shri Bipin Ch. Mahanta availed  
leave for a period of 90 days from 24.08.94 to 30.11.94  
the applicant Smti. Anima Kalita was nominated as the  
substitute by said Shri Mahanta to work as EDDA at his  
own Responsibility interms of instructions 4 of Director  
General's Instruction inserted below Rule 1964.

Contd....P/2

Filed by

23/1/2001

C. A. T. Guwahati Bench

On expiry of leave said Shri Mahanta did not resume his duty. The appointing authority (Asstt. Superintendent of Post Offices, West Guwahati Sub - Division) issued an order on 09.12.94 to officiate the substitute (Smti. Anima Kalita) as EDDA till the original incumbent resume duty or any action is taken as deem fit.

The arrangement made on 09.12.94 was ordered to be terminated by the appointing authority on 27.11.95 and Anima Kalita has gone to CAT and CAT passed an order dated 28.08.98 that she should be given a temporary status without monetary loss. Accordingly the CAT's order was implemented immediately on 22.09.98 and she was absorbed in part time safaiwala post with pay of EDDA ( i.e. pay entitlement of EDDA at the time of CAT's final order).

Later the petitioner has requested the department to pay her revised allowances of ED employee ( Pay of ED employees was revised in the year 1999 (i.e. much later than CAT's final order and also implementation of final order). But department rejected her application as she was not entitled. She also claimed for allowance for 8 days from 7.10.98 to 3.10.99 but the same was refused to her as she was not holding any post in the department.

PARAWISE COMMENTS.

1. That with regard to para-1, the Respondents beg to state as per Hon'ble CAT order dated 28.8.98 against O.A. No.40/96 the order was carried out of implemented.

2. That with regard to Para - 2 & 3, the Respondents beg to offer no comments.

3. That with regard to para - 4.1, the respondents beg to state that the applicant had been absorbed as part time safaiwala giving temporary status ~~very~~ without monetary loss as per Hon'ble CAT Direction. She had been given the prerevised scale of EDDA with present pay protection and not allowed to her any future revision of pay and order allowance as per CAT verdict dated 28.8.98.

4. That with regard to para - 4.2, the respondents beg to offer no comments.

5. That with regard to para - 4.3, the Respondents beg to state that the casual worker could not be engaged to officiate as EDDA and that irregular order terminated vide letter dated 27/11/95 and thus the claim of the applicant as casual labour does not exist. The applicant after being terminated proceeded to Hon'ble CAT under O.A. No-40/96 and then order of CAT since been implemented by the respondent No-4.

6. That with regard to para -4.4, the respondents beg to state that in pursuance of the CAT judgment dtd. 28.8.98 and communicated by respondent No- 4 the ASPOs (West) directed vide his letter dated 22.9.98 to relieve Smti. Anima Kalita from the post of EDDA, Kamakhya and she had been engaged as part time safaiwala with present pay protection.

7. That with regard to para - 4.5, the Respondents beg to state that she had given the pre-revised protection of pay which was existed. Though she had been engaged as safaiwala the pay of EDDA, which was enjoyed by her

protected as per Hon'ble CAT order dated 28.8.98. The Hon'ble CAT was not directed the respondent No-4 to allow her future revision of pay and D.A. vide order dated 28.8.98.

8. That with regard to para - 4.4, the respondents beg to state that since her officiating period as EDDA was irregular and subsequently terminated also vide letter dated 27.11.95 the question of ignoring regularisation as well as violation of Hon'ble Judgment does not arise.

9. That with regard to para- 4.7, the respondents beg to state that the Hon'ble CAT order dated 28.8.98 had been implemented with a communication to the applicant. Regarding ~~xxxxxxx~~ contempt petition no-4/2000 in OA 40/96 the Hon'ble CAT issued order dated 14/11/2000 that there was no wilful violation of respondent No- 4 and the disposed the contempt petition in favour of department.

10. That with regard to para-4.8, the respondents beg to state that there was no wilful violation of CAT order by the respondent and the petition disposed of in Deptt. favour on 14.11.2000. The Hon'ble CAT not ordered to allow the applicant future pay and D.A protection. The applicant relieved from the post of EDDA on 6.10.98 and joined as Safaiwala on 14.19.98. She remained absence w.e.f. 7.10.98 to 13.98 wilfully and the claim of pay to her absent period was totally baseless and un realistic. She had been given pre - revised scale and not comparable to her pay to any other receipant of revised pay holder.

11. That with regard to para-409, the Respondents beg to offer no comments.

12. That with regard to para-4.10, the respondents beg to submit the comments what have already made against the foregoing paragraph -4.8 above.

13. That with regard to para -4.11, the respondents beg to state that the implemented as per CAT Judgment dated 28/8/98 in O.A. 40/96. No comments on second line.

14. That with regard to para - 5.1, the respondents beg to submit the comments what have already made against the foregoing paragraphs 4.1 and 4.5 above.

15. That with regard to para -5.2, the respondents beg to state that the respondent could violate rules and departmental procedures and acted as per rules.

16. That with regard to para - 5.3, the respondents beg to state the comments what have already made against the foregoing paragraph 4.1 above.

17. That with regard to para - 5.4, the respondents beg to submit the comments what have already made against the foregoing paragraph -4.8 above.

18. That with regard to para -5.6, the respondents beg to offer no comments.

19. That with regard to para-6,7,8 & 8.1, the respondents beg to offer no comments.

20. That with regard to para - 8.2, the respondents beg to submit the comments what have already made against the foregoing paragraph -4.5 above.

21. That with regard to para-8.3,8.4,8.5,9,10 &11, the respondents beg to offer no comments.

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

I, Shri SOM KAMEI, SSPD, Guwahati Division

being authorised do hereby verify and declare that the statements made in this written statement are true to the best of my knowledge, information and believe and I have not suppressed any material fact,

And I sign this verification on this 22th day of January 2002.

Declarant.

OFFICE OF THE  
JUNIOR ASSTANT COMMISSIONER  
Sr. Asst. Commr. of P. & Office  
Guwahati Division, Guwahati-781005

47  
Filed by  
Sh. delhartha Sarma  
Advocate  
6/2/2002

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.No.179/2001

Anima Kalita

Versus

U.O.I. & Ors.

Rejoinder to the written statement filed by Respondents

1. That the applicant has received a copy of the Written Statement filed by Respondents and has gone through same. Save and except the statement which are specifically admitted hereinbelow, rests may be treated as total denial.

2. That with regard to the statement made in brief history of the case of the written statement the applicant begs to state that the judgment of the Hon'ble Tribunal is very much clear and it speaks of three directions mainly-

(i) A categorical direction to the respondents to grant temporary status under the scheme taking in to consideration her continuous service w.e.f. 1.12.94 till 12.3.96. Liberty was granted to the applicant to agitate the matter if she is aggrieved by the order of the respondents. The period under termination was directed to be considered as an artificial break which would not forfeit the past service of the applicant while considering her case for grant of temporary status.

(ii) Secondly there has been a categorical direction to retain the applicant under the direct control of Respondent

No.4 till the aforesaid formalities for grant of Temporary Status is over.

(iii) Thirdly, there has been a categorical direction to the respondents regarding her pay protection.

The respondents have implemented the directives of the Hon'ble Tribunal not in true sense. While implementing the judgment the respondents have absorbed her as part-time Safaiwala with the pay scale of EDDA at the time of Judgment. Subsequently, the pay of EDDA has been revised in the year 1999 but effect of revision never made applicable her in the name of monetary loss/pay protection. In fact, during the pendency of the earlier O.A she was given the benefit of pay revision in the EDDA cadre/category by way of arrears w.e.f, Jan 1996 to Sept 1998, but same has been withdrawn/discontinued in the name of pay protection and now she is drawing a pay which is not in existence. The judgment although made an observation regarding monetary loss/pay protection, however it doesnot preclude the authority to make subsequent revision. In the instant case in the name of pay protection the pay of the applicant has now been fixed in a rate which is not in existence now in the Department. On the other hand the claim of the applicant for her salary w.e.f. 6.10.98 to 13.10.98 has been refused without any basis. In fact she was holding the post of EDDA till 14.10.98 and thereafter she joined as Safaiwala and to that effect the directive of the judgment is very clear that break period should be counted as artificial break.

3. That with regard to the statement made in para 1 & 2 the applicant reiterates and reaffirms the statement made above.

4. That with regard to the statement made in para 3



the applicant while denying the statement made therein begs to state that although the respondents have made a statement that she has been granted with temporary status but no order to the effect has been issued to her. The respondents have also admitted the fact that taking into consideration the judgment dated 28.8.98 she has been given pre-revised scale and she will not be allowed any further revision of pay. Admittedly the judgment of this Hon'ble Tribunal has not precluded the respondents for revision in her scale rather protecting her service interest her pay was also protected so that to mitigate her hardship.

5. That with regard to the statement made in para 4 and 5, the applicant denies the correctness of the same and reiterates and reaffirms the statement made above as well as in the O.A.

6. That with regard to the statement made in para 6, the applicant denies the correctness of the same and begs to state that after granting temporary status the benefit mentioned in the scheme has not been made applicable to the applicant. That apart she has been allowed a pay scale which is not in existence i.e, the pre-revised pay scale. Presently she is entitled to draw a pay scale of a group-D official including DA, HRA, CCA, etc as per the scheme apart from the other benefit of increment, leave, counting of 50% service towards pensionary benefits, regularisation after 3 years of service, productivity linked bonus etc. She is also entitled to her conversion to full time temporary status worker taking into consideration the scheme.

7. That with regard to the statement made in para 7, the applicant denies the correctness of the same and begs to state that the respondents misinterpreting the word pay protection granted to her by the Hon'ble Tribunal, refused

to grant the benefit of subsequent pay revision and due pay admissible to a temporary status employee and the other benefits.

8. That with regard to the statement made in para 8 to 21, the applicant denies the correctness of the same and reiterates and reaffirms the statement made above as well as in the O.A.

In view of the above the applicant while reiterating her prayer made in the O.A prays before the Hon'ble Tribunal for setting aside and modification of the impugned orders dated 22.9.98 and order dated 23.2.99, with a further direction to the respondents to implement the judgment and order dated 28.8.98 passed in O.A No 48/96 by allowing her all the consequential benefits mentioned in the scheme along with fixation of her pay in conformity with the direction mentioned in the said judgment with subsequent revisions and 8 days duty allowance treating her on duty and the cost of the application.

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VERIFICATION

I, Smt. Anima Kalita, Wife of late I. Kalita aged about 37 years, at present working as EDDA, in the Kamakhya Post Office, do hereby solemnly affirm and verify that the statements made in paragraphs 1 and 3 to 8 are true to my knowledge and those made in paragraph 2 is true to my legal advice based on records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 4th day of Feb of 2002.

Smt Anima Kalita