

FROM No. 4
(SEE RULE 42)

SENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. /

Mise Petition No. /

✓ Contempt Petition No. 35 / 2002 (OA 26/2002)

Review Application No. /

Applicant. M. C. Gupte.

-Vs-

Respondent(s) K. S. Saona & V. Prakash.

Advocate for the Applicant(s) Mr. ADIL AHMED.

Advocate for the Respondent(s) Mr. A. K. Choudhury for Contemnors No. 1, 2, 3.

Notes of the Registry	Date	Order of the Tribunal
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This contempt petition 20.8.02 has been filed u/s 17 of the C.A.T. Act, 1985 praying for punishment of the contemnor/ respondent for non-compliance of Judgment & order dated 21.3.2002 which was passed in OA No. 26/2002 by this tribunal.

Laid before Hon'ble Court for orders

9/8/02

Secretary

20.9.02

mb

ICC Ushan

Member

h
Vice-Chairman

Mr. B. C. Pathak, learned Addl. C.G.S.C. has stated that the Respondents shall engage Mr. A. K. Choudhury, learned Addl. C.G.S.C. to represent them and Mr. A. K. Choudhury, will enter appearance on behalf of the alleged contemnor for accommodating the respondents and he prays for time to file reply. Prayer is allowed. List on 27.9.02

contd/-

(2)

Notices prepared
And Sent to D. Section
for issuing of the
Same to the respondents
Through Regd. post.

20.9.02 for hearing

lm

Vice-Chairman

File No. 2268 to 2270 27.9.02
Dtd 26-8-02.

Mr. A.K. Choudhury, learned
Addl. C.G.S.C. / entered appearance
on behalf of the respondents and prays
for time to file reply. Prayer is allowed.

List again on 11.11.2002 for
orders.

30
22-8-02

K. Usha
Member

Vice-Chairman

mb

11.11.02

On the prayer of Mr. A.K. Choudhury
learned Addl. C.G.S.C. for the respondents
further four weeks time is granted
to the respondents to file reply.

List on 12.12.2002 for orders.

No reply has been
billed.

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11.12.02

K. Usha
Member

Vice-Chairman

mb

12.12.02

On the prayer of Mr. A.K. Choudhury,
learned Addl. C.G.S.C. for the respondents
further four weeks time is allowed to the respondents to file reply.

List on 13.1.2003 for orders.

No reply has been
billed.

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22.1.03

13.1.2003

Due to vacation, the case is adjourned
to 23.1.2003.

My
Res

23.1.2003

Put up again on 31.1.2003 to enable
the respondents to file reply, if any. This
order is passed on the prayer of Mr. A.K.
Choudhury, learned Addl. C.G.S.C. for the
respondents.

No reply has been
billed.

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30.1.03

Sru

mb

Member

Vice-Chairman

31.1.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra, Administrative Member.

Put up again on 25.2.2003
for orders on the prayer made by Mr. A.K. Chowdhury, learned Addl. C.G.S.C. for the respondents.

21.02.03

Show Cause
Reply has been submitted
by the Report No. 2 & 3.

Member

Vice-Chairman

25.2.2003 Reply has been filed by the respondents. List the matter on 25.3.2003 for orders. The applicant may file rejoinder, if any.

27.2.03

Show Cause
Reply submitted by
the Report No. 1.

Vice-Chairman

mb

25.3.2003 Pleadings are complete. The case may now be listed for hearing on 8.5.2003.

28.2.03

Rejoinder submitted
by the applicant.

S. A

Member

Vice-Chairman

mb

8.5.03

Listed on 20.5.03 for hearing.

By order

20.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr. S.K. Hajra, Administrative Member.

On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents the case is adjourned and the same is posted for hearing on 28.5.2003.

Member

Vice-Chairman

28.5.2003

Heard Mr. A. Ahmed, learned counsel for the petitioner, and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. Upon hearing the learned counsel for the parties and considering the materials on record we are of the opinion that it is a fit case where a direction needs to be issued to the respondent No.1, the Director General, A.I.R. or his Chief Executive Officer for appearance before the Tribunal alongwith the connected records including the file of departmental proceeding on 30.6.03. It is expected from the respondents to take necessary measure for production of the connected records to show the steps, so far taken for compliance of the order of the Tribunal. Put up on 30.6.03 for hearing.

uui Member

h Vice-Chairman

Copy of the order may be furnished to the learned Addl. C.G.S.C.

nkm

30.6.2003

Heard Mr. A. Ahmed, learned counsel for the petitioner and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C.

Shri Vigyan Prakash, Chief Engineer, CCW, AIR, New Delhi has appeared alongwith Shri A.K. Gupta, Executive Engineer, Surveyor of Works (Vig.). Let the matter be posted before the Division Bench.

In view of the order passed in M.P.72/2003 the personal appearance of respondent No.1 Shri K.S. Sarma, Chief Executive Officer & Director General, AIR, Prasar Bharati, New Delhi is dispensed with for the time being.

The respondents have also produced the records today. The records are returned with a direction to produce the same at the time of hearing fixed on 21.7.2003.

2.7.03
Shri's cause reply
submitted by the
Respondent Nos. 1, 2 and 3.

Notes of the Registry

Date

Orders of the Tribunal

18.7.2003

Put up again on 23.7.2003 for
hearing.

Member

mb

ccd

Vice-Chairman

6
Notes of the Registry

Date

Orders of the Tribunal

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24.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Administrative Member.

Pass over for the day. Put up again on 25.7.2003 for hearing.

Member

Vice-Chairman

mb

25.7.2003 Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr N.D.Dayal, Admn. Member.

We have heard Mr A.Ahmed, learned counsel for the applicant and Mr A.K.Choudhuri, learned Addl.C.G.S.C. for the respondents. As per order dated 21.3.2002 passed in O.A.26/2002 all concerned authorities were directed to complete the departmental proceeding within the time framed and on its failure to complete the same with the time stand prescribed the proceeding would be dropped automatically. As per the said order the proceeding was to be completed within four months from the date of receipt of the order. From the record it appears that the office of the Director General, All India Radio was fully aware of the order and by communication dated 16.5.2002 the Executive Engineer, CCW, All India Radio, Itanagar was advised to complete the departmental proceeding positively within the time limit set up by the Tribunal. The proceeding came to an end by the aflux of time. The affidavit filed by the alleged contemners however reveals that the authority continued with the proceeding which is contrary to the direction issued by this Tribunal.

contd..

C.P.No.35/2002 (O.A.No.26/2002)

Let the matter be put up again on 31.7.2003 for further hearing. On that day the respondent No.1 Sri K.S.Sarma, Director General, AIR, Prasar Bharati, New Delhi-1 is ordered to be present.

Copy of this order may be furnished to the learned Addl. C.G.S.C during the course of the day.

By order pg

8/57

Member

Vice-Chairman

31.7.2003 Put up the matter on 14.8.2003 for further orders.

Member

Vice-Chairman

mb

14.8.2003 List on 28.8.2003 for further order.

Vice-Chairman

bb

28.8.2003 Present: Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman
Hon'ble Mr K.V. Prahaladan, Administrative Member.

Heard Mr A. Ahmed, learned counsel for the contempt petitioner and also Mr A.K. Chowdhury, learned Addl. C.G.S.C. appering on behalf of the alleged contemner Nos.1, 2 and 3. Mr K.S. Sarma, Chief Executive Officer and Director General, AIR of Prasar Bharti, and Mr Vigyan Prakash, Chief Engineer, CCW, AIR, are also present in pursuance to the order dated 25.7.2003.

Considering the fact situation and considering the reply, more particularly the reply filed by the respondents.....

Office Note	Date	Tribunal's Order
<u>11.9.2003</u> Copy of the order has been sent to the ofc. for issuing the same to the L/Advocates for the parties. <i>JK</i>	28.8.2003	<p>respondents we are not inclined to stretch the matter further.</p> <p>We are not free from errors nor can we claim infallibility. Provisions, however, for internal as well as external checks for rectification of mistakes are also available. Instead, if one tends to disregard the Judgments/orders or attempts to deflect the course of justice it is likely to subvert the rule of law, nay, it strikes at the very foundation of the society.</p> <p>We are, however, not inclined to go further into the issue. The respondents personally appeared and candidly acknowledged the laxity. Homer also sometimes nods. We are also no exception. The contempt power is not exercised to vindicate the dignity of the Court or Judge, but to preserve the authority of law. The sincere explanation offered by the Director General is accepted.</p> <p>On consideration of all aspects of the matter we close the proceeding.</p> <p>The contempt proceeding thus stands discharged.</p> <p><i>K. Prabhakar</i> Member</p> <p><i>Vice-Chairman</i></p> <p>nkm</p> <p>Received copy on behalf of respondent. <i>Shankar</i> 24/9/03</p>

Office Note	Date	Tribunal's Order

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

CONTEMPT PETITION NO. 35 OF 2002.

IN O. A. No. 26 OF 2002.

IN THE MATTER OF:

A petition under Section 17 of
the Central Administrative
Tribunal Act, 1985 praying for
punishment of the Contem-
per/Respondent for non-com-
pliance of judgment and order
passed by the Hon'ble Tribu-nal
in O.A. No. 26 of 2002 on 21-
03-2002.

-AND-

IN THE MATTER OF

Sri M. Chinsuan Guite,
-Applicant.

-Versus-

The Union of India & Ors.

-Respondents.

alms

-AND-

IN THE MATTER OF

Sri M. Chinsuan Guite
S/o Late M Kaizathang Guite
Assistant Surveyor of Works
(Civil), Civil Construction
Wing All India Radio, Guwahati
Division, Tarun Nagar,
Bye Lane No. 1,
Guwahati-781005.

-Applicant.

-Versus-

1) Sri K S Sarma,
Director General, A.I.R
Prasar Bharati,
Broadcasting Corporation of
India Doordarshan Bhawan
Copernicus Marg, Mandi House,
Mandi House, New Delhi-1.

2) Sri Vigyan Prakash,
Chief Engineer-I Civil
Construction Wing, All India
Radio Suchna Bhawan,
6th Floor C.G.O. Complex,
New Delhi-110003.

12/12/2023

33 Sri K Penniah,
 Superintending Enginner
 Civil Construction Wing,
 All India Radio,
 Doordarshan Staff Colony,
 VIP Road, Hengrabari,
 Guwahati-36.

-Respondents

Contemnners.

The Humble Petition of the
 above named Petitioner:

MOST RESPECTFULLY SHEWETH:

13 That your humble petitioner beg to state that he had earlier filed an Original Application No. 273, of/ 2000 before this Hon'ble Tribunal against the impugned departmental Proceeding initiated against your applicant after lapse of 12 (twelve) years. The Hon'ble Tribunal after hearing the parties of the above-mentioned Original Application was please to pass an order and judgment dated 16th May 2001 directing your applicant "to submit his written statement, if he has not yet done so, within one month from the date of receipt of this order. In the mean time, if he needs inspection of any document he may ask for inspection of the documents and submit additional written statement thereafter. The

Respondents, on receipt of such written statement may take an appropriate decision in the matter and complete the enquiry as early as possible, preferably within six months from the date of receipt of the written statement of the applicant. Needless to say that the applicant shall be entitled to raise all the issue before the Respondents either in the written statement or in the arguments which were already taken in this applicant and defend his case as per law."

23 That your petitioner begs to state that as per direction of the Hon'ble Tribunal in the above-mentioned case i.e. Original Application 273 of 2000 your applicant submitted written statement within one month but the Respondents/Contemners did not take any steps in this matter after more than 9 (nine) month. Your applicant was again compelled to approached this Hon'ble Tribunal by filing Original Application No. 26 of 2002 for quashing the impugned department proceeding initiated against the petitioner. The Hon'ble Tribunal on 21-03-2002 after hearing the both side pass an judgment and order directing the Respondents "to consider the case of the applicant for promotion to the post of Executive Engineer from the rank of Assistant Engineer by convening a DPC without taking note of the charges. If the DPC recommends the case of the applicant, in that case, the authority shall take necessary steps for his promotion on adhoc

[Signature]

basis. The respondents are ordered to complete the proceeding within the four months from the receipt of the order by providing a fair and reasonable opportunity to the applicant to defend his case as per law. It would be open to the applicant to take all the legal issue before the authority that he had raised before this Tribunal and the respondents shall take note of the same. The applicant is also ordered to render co-operation in conclusion of the proceeding. In the event the disciplinary proceeding is not concluded within the time schedule prescribed above the disciplinary proceeding shall stand dropped against the applicant. The application accordingly stands allowed to the extent indicated above at the admission stage.

Annexure 'A' is the photocopy of the judgment and order dated 21-03-2002 pass in Original Application No. 26 of 2002.

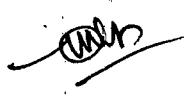
30 That your petitioner begs to state that the Respondents started the preliminary hearing of the departmental proceeding against your applicant on 18-07-2002 after three month passing of the judgment and order in Original Application No. 26 of 2002. Your petitioner fully co-operated with the Preliminary hearing held on 18-07-2002. The next date of regular hearing was fix on 09-09-2002. It is pertinent to mention here that the

respondents have also admitted that the departmental proceeding against the applicant to be completed by 10th August 2002 vide their letter No. DG AIR CC W ID note No. C-13013/41/94/SW(V)-1/353 dated 09-08-2002. As such your petitioner is compelled to file this contempt petition against the respondents/Contemners.

Annexure-B is the Photocopy of order No. IO/MCG/2002 dated 18-07-2002.

Annexure-C is the Photocopy of the letter No. DG AIR CC W ID note No. C-13013/41/94/SW(V)-1/353 dated 09-08-2002.

4] That your petitioner begs to state that in spite of clear cut order passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati the Respondent/ Contemner has not taken steps for completion of departmental proceeding against the applicant in stipulated time pass by the Hon'ble Tribunal in Original Application No. 26 of 2002. As such, it appears that the Respondent/Contemner has shown disrespect, disregard and disobedience to this Hon'ble Tribunal. The Respondent/Contemner deliberately with a motive behind has not complied the Hon'ble Tribunal's Judgment and Order dated 21-03-2002



passed in O.A. No. 26 of 2002. The Respondent/Contemner is unnecessarily dragging this matter for last fourteen years only to harass your petitioner. As such, the Respondent/Contemner deserves punishment from this Hon'ble Tribunal. It is a fit case where the Respondent/Contemner may be directed to appear before this Hon'ble Tribunal to explain as to why he has shown disrespect to this Hon'ble Tribunal.

51 That this petition is filed bona fide to secure the ends of justice.

In the premises, it is, most humbly and respectfully prayed that your Lordship would be pleased to admit this petition and issue Contempt notice to the Respondent/Contemner to show cause as to why he should not be punished under Section 17 of the Central Administrative Tribunal Act, 1985 or pass such any other order or orders as this Hon'ble Tribunal may deem fit and proper.

Further, it is also prayed that in view of the deliberate disrespect and disobedience to this Hon'ble Tribunal's order dated 21-03-2002

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passed in O.A. No. 26 of 2002 the Respondent/ Contemner may be asked to appear in person before this Hon'ble Tribunal to explain as to why he should not be punished under the contempt to court proceedings.

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

.. Draft Charge

Wb

DRAFT CHARGE

The petitioner aggrieved for non-compliance of Judgment and order dated 21-03-2002 passed by this Hon'ble Tribunal in O.A. No. 26 of 2002. The Contemner/Respondent have willfully and deliberately violated the Judgment and Order dated 21-03-2002. Accordingly, the Respondent/Contemner is liable for contempt of court proceedings and severe punishment thereof as provided under the law. He may also be directed to appear in person and reply the charges leveled against him before this Hon'ble Tribunal.

[Handwritten signature/initials at the bottom left]

Affidavit

I, Sri M. Chinsuan Guite, S/o Late M Kaizathang Guite, Assistant Surveyor of Works (Civil), Civil Construction Wing All India Radio, Guwahati Division, Tarun Nagar, Bye Lane No. 1, Guwahati-781005 do hereby solemnly affirm and say as follows:

- 1) That I am the applicant in O.A. No. 26 of 2002 and also the petitioner of the instant petition and as such I am acquainted with the facts and circumstances of the case.
- 2) That the contents of this affidavit and the statements made in paragraphs 1, 4 — of the above petition are true to my knowledge and those made in paragraphs 2, 3 are being matters of records derived there from I belief to be true and those made in the rests are my humble submissions before this Hon'ble Tribunal.

I sign this affidavit on this the 19th day of August 2002 at Guwahati.

Identified by me:

Advocate

(Adil Ahmed)

M. Chinsuan Guite

Deputy CIVIL

Solemnly affirmed before me by the Deponent who is identified by Mr. Adil Ahmed, Advocate.

S. Sengupta
Advocate, Guwahati
19.8.2002

Original Application No. 26 of 2002.

Date of Order : This the 21st Day of March, 2002.

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

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Sri M.Chinsuan Guite
S/o Late M.Kaizathang Guite
Assistant Surveyor of Works
(Civil), Civil Construction Wing
All India Radio
Guwahati Division
Tarun Nagar, Bye Lane No.1
Guwahati - 781 005.

OA 273/01

Applicant.

By Advocate Mr.Adil Ahmed.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Information and
Broadcasting, New Delhi.
2. The Chief Executive Officer
Prasar Bharati
Broadcasting Corporation of India
Doordarshan Bhawan
Copernicus Marg, Mandi House
New Delhi-1.
3. The Director General
Prasar Bharati
(Broadcasting Corporation of India)
Civil Construction Wing
All India Radio
Government of India
New Delhi-1.
4. The Chief Engineer-I Civil
Construction Wing, All India Radio
Suchna Bhawan, 6th Floor
C.G.O. Complex
New Delhi - 110 003.

Attached
File
Advocate

Contd..2

5. The Superintending Engineer
Civil Construction Wing
All India Radio
Doordarshan Staff Colony
V.I.P. Road, Hengrabari
Guwahati - 36. . . . , Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C.) :

The disciplinary proceeding was earlier initiated against the applicant vide memo dated 19.6.2000 for the alleged misconduct that took place in 1988-90. The legitimacy and continuance of the departmental proceeding after a long lapse of time was assailed before this Bench in O.A.273 of 2000. By order dated 16.5.2001 the Bench directed the respondents to complete the proceeding with utmost expedition within the time frame given. Pursuance to the order the applicant submitted his written statement on 4.6.2001 questioning the continuance of the proceeding as well as the merit of the charges. Despite the said direction since the respondents did not complete the departmental proceeding within the time prescribed the applicant now moved this Bench by way of this application assailing the continuance of the departmental proceeding as illegal and unlawful.

2. Admittedly, more than nine months passed since the filing of the written statement. By order dated 16.5.2001 we provided opportunity to the respondents to complete the departmental proceeding within the time prescribed. There is no justification

Contd..3

*After 1st
Adm'te*

in not completing the departmental proceeding within the time prescribed. The respondents seemingly acted with torpidity. No deriliction is discernible on the part of the respondents in not completing the departmental proceeding despite opportunity given.

3. Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents defending the respondents, however, submitted that by order dated 18.3.2002 an Enquiry Officer was appointed so also the Presenting Officer.
 BEING appointment of Enquiry Officer is itself not sufficient compliance of the statutory duty imposed on the authority. It was argued by Mr.Adil Ahmed, learned counsel for the applicant in the pretext of the alleged proceeding the respondents did not consider the case of the applicant for further promotion and for the laches on the parts of the respondents the applicant is suffering in his career progression. The departmental proceeding cannot be used as a vehicle of operation.

4. Considering all the aspects of the matter we direct the respondents to consider the case of the applicant for promotion to the post of Executive Engineer from the rank of Assistant Engineer by convening a DPC without taking note of the charges. If the DPC recommends the case of the applicant, in that case, the authority shall take necessary steps for his promotion on adhoc basis. The respondents are ordered to complete

Attended
13
Adarsh

- 4 -

the proceeding within four months from the receipt of the order by providing a fair and reasonable opportunity to the applicant to defend his case as per law. It would be open to the applicant to take all the legal issues before the authority that he had raised before this Tribunal and the respondents shall take note of the same. The applicant is also ordered to render co-operation in conclusion of the proceeding. In the event the disciplinary proceeding is not concluded within the time schedule prescribed above the disciplinary proceeding shall stand dropped against the applicant.

The application accordingly stands allowed to the extent indicated above at the admission stage.

There shall, however, be no order as to costs.

SD/ VICE CHAIRMAN
SD/ MEMBER (A)

Certified to be true Copy

প্রাধানিক প্রতিলিপি

bb

Section Officer (U)

গুৱাহাটী প্রাধানিক প্রতিলিপি
Central Administrative Tribunal

কেন্দ্ৰীয় প্রাধানিক প্রতিলিপি,

Guwahati Bench, Guwahati

প্রাধানিক প্রতিলিপি, পুস্তক

15/2/2002

Attached
File
Front

- 15 -

No. I.O/MCG/2002/

Guwahati
Date 18.07.2002

Present: Shri R. C. Das, PO
Shri M. C. Guite, CO

PH started today. The Charged Officer confirmed to have received the charge sheet and denied the charges.

The PO had brought the listed documents and these were offered to the CO for inspection today. The inspection was completed. The CO has raised his doubts about the authenticity of documents, since the same are attested copies only. CO has also pointed out that annexure 'B', 'C' and 'D' of document listed at Sr. No. 7 are not available. The PO will arrange the original documents along with annexure 'B', 'C' and 'D' of document listed at Sr. No. 7 and intimate the CO accordingly. Thereafter CO will inspect the original documents in the office of PO and the PO will furnish to the CO Photostat copies of the listed documents to the extent possible. This exercise should be completed by 27.08.2002. A certificate would be given by the CO immediately for having received copies of the documents required by him.

CO may like to submit a list of additional documents and defence witnesses. Both these lists should reach the undersigned by 19.07.2002 alongwith copy to the PO. The list of additional documents should include (a) particulars of the documents with file No. and date (b) custodian and (c) relevance of the documents to the charges. The list of defence witnesses will include current postal addresses and their relevance to the charges. The CO has to note that if the relevance of the documents/witnesses is not mentioned, these are liable to be disallowed. The PO should collect the documents and arrange immediate inspection of the additional documents, found relevant by me, to the CO by 27.08.2002 Photo copies of permitted documents may also be supplied to the CO to the extent possible by 27.08.2002 A certificate of inspection should again be obtained from the CO by the PO and send to the undersigned.

In case of any doubt by CO about the authenticity of the listed or additional documents, such intimation has to be sent within 3 days of the inspection, failing which it shall be assumed that the documents are accepted as genuine. In case of non-availability of any document, a certificate for non-availability should be obtained from its custodian and send to the CO and the undersigned.

The regular hearing is fixed from 09.09.2002

Copy of the order sheet handed over to PO and CO.

(RAJEEV GARG)
Inquiry Officer.

PO: Pls see 18.7.02
CO: TSF: 11.10.02

Attached
JL Admit

28
ANNEXURE-C

— 16 —

Confidential
Most Immediate
Speed Post

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL, ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(VIGILANCE UNIT)

5th Floor, Soochna Bhawan
CGO Complex, Lodi Road
New Delhi-110003

Sub:- Departmental Inquiry against Shri. M.C. Gulle, ASW@, CCW, AIR, Guwahati.

With respect to the subject cited above, enclosed herewith please find the copy of DG: AIR ID note dated 5.8.02 to take necessary action as advised therein without further delay.

This may be treated as Most Urgent

Encls: A/1a

(M.S.MEHTA)
Surveyor of Works ©(v)-I

Sh. Rajeev Garg, I.O., CCW, AIR, Itanagar

DG: AIR, CCW ID note no. C-13013/41/94/SW(V)-I

1353

Dt. 9/8/02

Copy to:-

1. The Superintending Engineer©, CCW, AIR, Doordarshan staff quarters complex, VIP Road, PO. Hengrabari, Guwahati-781036 for information as advised in DG: AIR ID note, in case, it is found necessary to seek more time to conclude the proceedings, the same may be sought from Tribunal through Govt. Counsel, under intimation to this DG, AIR & this office.
2. EE©, CCW, AIR, Guwahati Division, Tarun Nagar Bye Lane, Guwahati, for information & necessary action, as above.
3. Sh. R.C.Das, P.O., CCW: AIR, N.S.Avenue, Silchar for information & immediately necessary action, as advised in DG: AIR ID note dated 5.8.02.
4. DG: AIR, (Sh. M.K. Sharma, DDA) Vigilance, Akashvani Bhawan New Delhi, for information w.r.t. ID note no. 7/55/95-Vig(Vol.II) dated 5.8.02.

818
Surveyor of Works ©(v)-I

(Signature)

Pl. handover a
copy of the
order to Sh. Garg
and for
1/10/02

(Signature)

1/10/02

28
17
TIME BOUND
CONFIDENTIAL
MOST IMMEDIATE

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
(VIGILANCE SECTION)

Subject :- Departmental Inquiry against Shri M.C. Gupte, ASWC, CCW, AIR, Guwahati.

Reference CCW, AIR, New Delhi's I.D. Notes No. C-13013/41/94-SW(V)-I/Vol.III/398 and 416 dated 09.04.2002 and 12.04.2002 forwarding therewith Central Administrative Tribunal, Guwahati Bench's Order dated 21.03.2002 in O.A. No. 26/2002 filed by Shri M.C. Gupte, ASWC, CCW, AIR, Guwahati.

2. As per the aforesaid order of the Tribunal, the inquiry proceedings have to be completed within 4 months from the receipt of its order. Shri Rajeev Garg, EE(C), CCW, AIR, Itanagar, I.O. in this case has already been informed about this order and advised to conclude the proceedings within the time set by the Tribunal. As per the aforesaid order of the Tribunal, the inquiry has to be completed by 10th August, 2002, as its order was received in this Directorate on 10.04.2002. It is, however, noticed vide Inquiry Officer's Notice No. ITA@/Conf/I/O/MCG/2002/2/478-79 dated 19/22.07.2002 (copy enclosed) that he wants to hold regular examination of the case on 9th and 10th September, 2002, that is after the expiry of the time limit stipulated by the Tribunal. In that case, as per the Tribunal's order, the charges framed against Shri Gupte shall stand quashed. In view of this, I.O. may be advised to accord top-most priority in this case and complete the proceedings within the time stipulated by the Tribunal. In case, it is found necessary to seek more time to conclude the proceedings, the same may please be sought from the Tribunal immediately through the Government Counsel, under intimation to this Directorate.

3. This may please be treated as MOST IMMEDIATE.

(M.K. SHARMA)
Dy. Director of Administration

Encl. : As above.

CCW, AIR (Shri M.S. Mehta, SWC(Vig.I), Soochna Bhawan, New Delhi
PB(BCI) DG: AIR I.D. Note No. 7/55/95-Vig.(Vol.II), dated the 5.8.2002

Attended
Dated

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition no. 35/2002
Original Application no. 26/2002

Sh. M.C. Guite
..... Applicant

Vs.

Sh. K.S. Sarma & Ors.
...Respondent.

The respondent no. 2, **■** beg to file
show cause as follows :

1. That all the averments and submissions made in the contempt petition (herein after referred to as the CP) is denied by the answering respondent save what has been specifically admitted herein and what appears from the record of the case.
2. That the statement made in paragraph 1 of the CP being matters of record of the case the answering respondent does not admit anything contrary to or inconsistent from what appears from the record .
3. That with regard to the statement made in paragraph 2 of the CP the answering respondent beg to state that this Hon'ble Tribunal vide order dt. 16.05.2001 directed the applicant to submit his written statement if he has not done so within the one month of the receipt of the order. It was also directed that in case the applicant felt the necessity to inspect any document he should ask for the same and thereafter submit his additional written statement. The applicant submitted his written statement on 4.6.2001 and did not express any intention to examine any documents although he was entitled to do so as directed by this Hon'ble Tribunal. After receipt of the written statement the competent authority carefully examined the



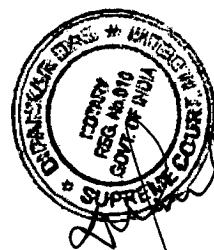
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Kiran Prekha
through
Hony. Venk Choudhury
21/2/03
Kiran
Dipankar Das
Notary Public
RECD. NO. 916
GOVT. OF INDIA
14, LAWYERS' CHAMBER
SUPREME COURT OF INDIA
Delhi
ATTESTED
29.01.03
Kiran

-2- 19- 2

matter and decided to hold enquiry as the reply filed by the applicant was found to be unsatisfactory. The competent authority appointed Sh. Rajeev Garg as Inquiry Officer vide order dt. 18.3.02 and Sh. R.C. Das as the Presenting Office. There is no denying the fact that this Hon'ble Tribunal directed the respondents to complete the inquiry within a period of 4 months from the date of receipt of the order. The applicant was also directed to render the necessary co-operation in conclusion of the disciplinary proceedings but the applicant due to reasons best known to him did not render the necessary co-operation as explained in detail in the inceeding paragraphs.

Copies of the aforesaid order dt. 18.3.02 is annexed hereto and is marked as Annexure I & II respectively.

4. That with regard to the statement made in paragraph 3 of the CP the answering respondent begs to state that the preliminary hearing took place on 18.7.02 only during which the applicant expressed his intention to examine the original documents .
5. That with regard to the statements made in paragraphs 3 of the CP the answering respondent begs to state that the preliminary hearing took place on 18.07.02 only during which the applicant expressed his intention to examine the original documents. The applicant raised the issue of examination of original documents at a belated stage to create hurdles in smooth conclusion of the departmental proceedings. Vide memorandum no. 7/55/95-Vig. dt. 2.8.2000 the applicant was provided with an opportunity to examine the documents and accordingly the applicant had seen copies of the authenticated documents on 25.08.2000 . Surprisingly, the applicant did not desire to inspect the original documents till commencement of the departmental proceedings. The applicant was thus sitting



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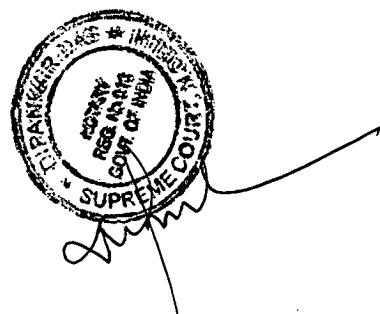
silently for two years and never demanded to inspect the original documents.

During the preliminary hearing on 18.07.2002 the presenting officer produced authenticated copies of the listed documents before the Inquiry Officer and the applicant. At that stage only, the applicant made a demand for examination of the original records. As such from the above it clearly transpires that the applicant willfully and deliberately violated that Hon'ble Tribunal's order dt. 16.5.2001 and demanded for examination of the original records at the belated stage, was only intended to delay the departmental proceedings.

Copies of the aforesaid letters dt. 2.8.2000 and 25.08.2000 are annexed hereto and marked as Annexure III & IV respectively.

6. That with regard to the statements made in paragraphs 4 of the CP the answering respondent begs to state that it is an admitted fact that this Hon'ble Tribunal had directed the respondents to conclude the departmental proceedings within a period of 4 (four) months, however the departmental proceedings could not be completed since the applicant had made a request for examination of the original documents only on 18.07.02. The respondent has a bonafide intention to produce the same before the applicant. However since the original documents were required at the Ministry of Information and Broadcasting at New Delhi for other official purposes some time was required in obtaining the documents from the Ministry. This could have been avoided had the applicant expressed his intention to see the original documents at the time of submission of his written statement.

Amritpal

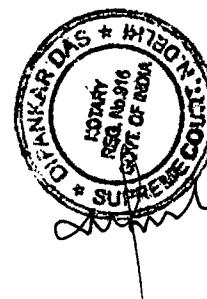


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7. That as such from the facts and circumstances stated above it is respectfully submitted that the instant contempt petition is not maintainable. The answering respondent is sincere and honest and is making earnest efforts for early conclusion of the departmental proceedings. The Inquiry Officer and the Presenting Officer has already been appointed and the Inquiry Officer has been apprised of this Hon'ble Tribunal's decision to complete the enquiry within the prescribed period. Departmental proceedings have already been initiated and preliminary hearing had taken place in Guwahati on 18.07.2002. Authenticated copies of all listed documents have been furnished to the Inquiry Officer and the applicant, some time is required for obtaining the original documents from the Ministry as desired by the applicant and the departmental witnesses shall have to be summoned from far off places like New Delhi and Chandigarh. As such some time would be required to produce them before the Inquiry Officer. Considering all these facts it is respectfully prayed that this Hon'ble Tribunal may kindly grant six months further time to answering respondent to complete the proceedings.

8. That the answering respondent respectfully begs to state that it is admitted that the departmental proceedings could not be completed within the period as laid down by this Hon'ble Tribunal. The answering respondents hereby tenders unconditional and unqualified apology for the said non-compliance. The delay as stated above has taken place due to reasons beyond his control. There is no willful and deliberate violation of the order passed by this Hon'ble Tribunal may be pleased to close the instant contempt petition.

Affidavit.....



K. Manjulal

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AFFIDAVIT

I, Vigyan Prakash, aged about 58 years son of Sh. Gyan Swarup resident of H-26 C, Sector -XI, Noida presently working as CE-I, CCW, AIR, New Delhi do hereby solemnly affirm and declare as follows :

1. That I have been impleaded as respondent no. 2. in the instant contempt petition and, as such, I am competent to file this affidavit and accordingly I swear the same. I am fully conversant with the facts and circumstances of the case.
2. That the statement made in this affidavit and at paragraphs 1 and 5 of the accompanying show cause are true to my knowledge, those made in paragraphs 2,3 and 4 being matter of record of the case are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal.

I sign this affidavit this the 29th day of January, 2003 at New Delhi.

Identified by :

Vigyan Prakash
Deponent. 29.1.03
VIGYAN PRAKASH, C.E, CCW, AIR

(ADVOCATE)

Solemnly affirmed and declared by the deponent who is identified by Rajesh Shah Advocate on this the 29th day of Jan. 2003.



(Advocate)

ATTESTED
Dipankar Das
DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT. OF INDIA
14, LAWYERS' CHAMBER
SUPREME COURT OF INDIA
NEW DELHI
29.01.03

I Identity the Executant/Deponent
who has Signed in My Presence

Mr. Rajesh Shah

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO

No. 7/55/95-Vlg. (i)

New Delhi, dated the

18.3.2002

ORDER

WHEREAS an Inquiry under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, is being held against Shri M.C. Guite, Assistant Engineer (C).

AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against Shri M.C. Gulte, Assistant Engineer (C).

NOW, THEREFORE, the undersigned, In exercise of powers conferred by sub-rule (2) of the said rule, hereby appoints Shri Rajeev Garg, Executive Engineer (C), Civil Construction Wng, All India Radio, Itanagar as the Inquiring Authority to inquire into the charges framed against the said Shri M.C. Gupte.

self

(K.S. SARMA)
Chief Executive Officer &
DG, AIR

Shri M.C. Gulte,
Assistant Surveyor of Works (C),
CCW, All India Radio,
GUWAHATI. } } (Through SE(C), CCW, AIR, Guwahati)

....Contd..2/-

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ANNEXURE - ~~732nd Circular~~

85-2, 8-2000

S. No. 95 (I)

3/1
Annexure - III

PHONIC DIVISION
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL - ALL INDIA RADIO

No. 7750/95-VB
New Delhi, dated the 9.8.2000.

MEMORANDUM

With reference to his representation dated 09.07.2000 addressed to Additional Secretary, Ministry of I&B regarding inspection of records/making copies of listed documents, Shri M.C. Bulta, ASW(C), CCW, AIR, Guwahati is hereby informed to contact Shri M.R.K. Nair, SW(C)-Vig.1, CCW, AIR, New Delhi immediately to inspect the listed documents and submit his representation within one month from the receipt of this Memorandum, failing which further action can be taken ex parte.

Sd/-

(NAREBH JAI BHU
Braction Officer
for Director General)

Shri M.C. Bulta,
Assistant Surveyor of Works (C),
CCW, All India Radio,
BWAHATI

(Through CCW, AIR,
New Delhi)

Copy to -

CCW, DG(AIR) (Shri M.R.K. Nair, SW(C)-Vig.1, dated their I.D. Note No. C-13013/41/94/BW(V)-1 Vol. II/310 dated 21.07.2000-X It is requested that the Mama. mount copy of Shri M.C. Bulta, ASW(C), may be sent delivered to him and the dated acknowledgement obtained and forwarded to this Directorate for record.

In this connection, all the listed authentic (and documents pertaining to the case are sent herewith (Enclosed). CCW, may allow him to inspect the listed documents. In case the inspection supply of the copies of the listed documents, CCW may please make arrangement to make copies of the listed documents to him. After doing the needful, the documents which are being sent herewith may please be returned to this Directorate.

Enclosed on above

M. K. Nair
M. K. Nair
S. No. 95 (I)

1/1
O/C for Director General
85-2, 8-2000

9 30
9
Confidential

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(Vigilance Unit)

Annexure - IV

No. C-13013/41/94/SW(V)-I/Vol. III/395-97 dt. 25/8/2000

Sh. M.C. Gulte
ASW(C)
CCW: AIR
Guwahati

Subject : Construction of 10 KW Transmitter and office building
including 8 nos. staff quarters for TV Centre at Churachanput.

Reference is invited to DG AIR's Memorandum no. 7/55/95-VII dt.
2.8.2000 on the subject cited above.

The documents as per Annexure- III of memo no. 7/55/95 dt.
9.6.2000 are enclosed herewith for inspection. Your statement of defence should
be submitted up to 10.9.2000 failing which further action can be taken ex-parte.

(M.R.K. NAIR)
Surveyor of Works SW(V)-I

Copy to : (N.O.O.)

Sh. S.L.S. Himanshu DDA (V), DG AIR, Akashwani Bhawan, New Delhi for
information please. The acknowledgement slips of Sh. M.C. Gulte
regarding memo no. 7/55/95-VII dt. 2.8.2000 are enclosed
enclosed in original

(M.R.K. NAIR)
Surveyor of Works SW(V)-I

25/08/2000
Sh. M.C. Gulte
ASW(C)
CCW: AIR
Guwahati

2X
3X
Confidential Reqd.
Dated 05-12-2002

NO. MAI/VIG/2002/91

Annexure Y

TO,
Sri-Avinash Kr. Gupta,
Surveyor of Works(C) Vig-I,
CCW, AIR,
5th Floor, Soochaa Bhawan,
CGO Complex, Lodi Road,
New-Delhi-110003.

Subject :- Disciplinary proceedings in respect of Sh. M. C. Guite, Asstt. Engineer(C), CCW, AIR, Guwahati.
Reference - CCW, AIR, ID Note No. C-13013/41/94/SW-(V)-/ Vol-III dt. 3/12/02

SIR,
As per the above reference letter, I have been informed to visit Vigilance unit of CCW, AIR at 5th floor, Soochaa Bhawan New-Delhi for inspection of the original documents. In this regard I am to mention that wide CNT, Guwahati Bench Judgement dated 21.3.2002 in OA no 26 of 2002 the disciplinary proceedings against undersigned stands dropped/Quashed since the departmental enquiry could not be concluded within the time frame, there is no time extension granted by the court. Hence I shall not be in a position to visit the Vigilance unit, CCW, AIR, New Delhi in compliance with the court's Order.

This is for your kind information and necessary action plea.

Yours faithfully,

(M.C. GUITE)
ASW (C), CCW: AIR
Guwahati.

Copy to:-

1. Sh. R.C. Das, Presenting Officer, E.E.(C), CCW, AIR, Silchar for information please.
2. Sh Rajiv Garg, Inquiry Officer, R2 E.E.(C), CCW, AIR, Itanagar for information please.
3. The Director General, (Kind attention Sh. Imran Farid S.O. (vig) AIR, Vigilance Section, Akashvani Bhawan, parliament street, New-Delhi for information please.

(M. C. GUITE)

Alleged
M.C.G.
Addl. General Commr.
Discipline Bureau

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH AT GUWAHATI 21 FEB 2002

In the matter of :-

CONTEMPT PETITION NO.35 OF 2002
IN O.A. NO. 26 OF 2002

*K. Ponnuswamy
through
Advocate General
Chandrasekhar*

Shri M.Chincuan Guite,
- Petitioner

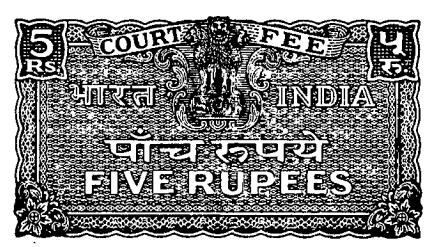
-Versus-

Shri K.S.Sarma & others.
- Opposite- Partner

The respondent No.3 begs to submit the show cause as follows:

1. That the Opposite Party No.3 begs to submit that on the subject matter cited above the deponent is neither the appointing authority nor the Head of the Department. Hence, the opposite party No.3 is no way connected with the contempt petition and is wrongly implicated by the Petitioner Shri M.C. Guite. Hence, it is submitted that the Opposite Party No.3 may be relieved from the contempt petition and be exonerated.
2. That the Opposite Party No.3 submits that he have in no way committed any contempt of the Hon'ble Tribunal.


Affidavit



29
AFFIDAVIT

I, Shri K.Ponniah, aged about 52 years son of M. Karuppiah ,Resident of Type "E" Quarter at AIR Colony, Chandmari, Guwahati – 781003 presently working as Superintending Engineer(Civil), Civil Construction Wing., All India Radio, Guwahati do hereby solemnly affirm and declare as follows:

1. That I have been impleaded as respondent no –3 in the instant contempt petition and ,as such, I am competent to file this affidavit and accordingly I swear the same. I am fully conversant with the facts and circumstances of the case.
2. That the statement made in this affidavit

I sign this affidavit this the ~~four~~ ^{four} ~~thirteen~~ ^{thirteen} day of February 2003 at Guwahati.

Identified by:

AK Chaudhury
(Advocate)

Deponent

Solemnly affirmed and declared
by the deponent who is identified
by *A K Chaudhury* Advocate
on this ~~13th~~ ^{13th} day of February
2003.

Leelakshana Ray
ADVOCATE

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

15 FEB 2002

Contempt Petition no. 35/2002
Original Application no. 26/2002

Sh. M.C. Guite
..... Applicant

Vs.

Sh. K.S. Sarma & Ors.
...Respondent.

The respondent no. 1, ~~etc.~~ beg to file
show cause as follows :

1. That all the averments and submissions made in the contempt petition (herein after referred to as the CP) is denied by the answering respondent save what has been specifically admitted herein and what appears from the record of the case.
2. That the statement made in paragraph 1 of the CP being matters of record of the case the answering respondent does not admit anything contrary to or inconsistent from what appears from the record .
3. That with regard to the statement made in paragraph 2 of the CP the answering respondent beg to state that this Hon'ble Tribunal vide order dt. 16.05.2001 directed the applicant to submit his written statement if he has not done so within the one month of the receipt of the order. It was also directed that in case the applicant felt the necessity to inspect any document he should ask for the same and thereafter submit his additional written statement. The applicant submitted his written statement on 4.6.2001 and did not express any intention to examine any documents although he was entitled to do so as directed by this Hon'ble Tribunal. After receipt of the written statement the competent authority carefully examined the

K S SARMA
स्वयंकारी अधिकारी
Chief Executive Officer
न्याय विभाग, वैदिकी
भारत, न्यू दिल्ली
१ लाल भवानी, न्यू दिल्ली



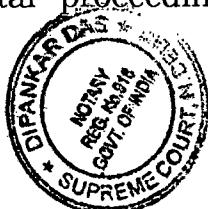
K. S. Sarma - OP No. 1
Through Kona Chandra S.
25/2/02

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matter and decided to hold enquiry as the reply filed by the applicant was found to be unsatisfactory. The competent authority appointed Sh. Rajeev Garg as Inquiry Officer vide order dt. 18.3.02 and Sh. R.C. Das as the Presenting Office. There is no denying the fact that this Hon'ble Tribunal directed the respondents to complete the inquiry within a period of 4 months from the date of receipt of the order. The applicant was also directed to render the necessary co-operation in conclusion of the disciplinary proceedings but the applicant due to reasons best known to him did not render the necessary co-operation as explained in detail in the inceeding paragraphs.

Copies of the aforesaid order dt. 18.3.02 is annexed hereto and is marked as Annexure I & II respectively.

4. That with regard to the statement made in paragraph 3 of the CP the answering respondent begs to state that the preliminary hearing took place on 18.7.02 only during which the applicant expressed his intention to examine the original documents .
5. That with regard to the statements made in paragraphs 3 of the CP the answering respondent begs to state that the preliminary hearing took place on 18.07.02 only during which the applicant expressed his intention to examine the original documents. The applicant raised the issue of examination of original documents at a belated stage to create hurdles in smooth conclusion of the departmental proceedings. Vide memorandum no. 7/55/95-Vig. dt. 2.8.2000 the applicant was provided with an opportunity to examine the documents and accordingly the applicant had seen copies of the authenticated documents on 25.08.2000 . Surprisingly, the applicant did not desire to inspect the original documents till commencement of the departmental proceedings. The applicant was thus sitting



(कृ. सर्मा)
(K. S SARMA)
ख्य कार्यकारी अधिकारी
Chief Executive Officer
प्रसार भारती, नई दिल्ली
Prasar Bharati, N. Delh.

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silently for two years and never demanded to inspect the original documents.

During the preliminary hearing on 18.07.2002 the presenting officer produced authenticated copies of the listed documents before the Inquiry Officer and the applicant. At that stage only, the applicant made a demand for examination of the original records. As such from the above it clearly transpires that the applicant willfully and deliberately violated that Hon'ble Tribunal's order dt. 16.5.2001 and demanded for examination of the original records at the belated stage, was only intended to delay the departmental proceedings.

Copies of the aforesaid letters dt. 2.8.2000 and 25.08.2000 are annexed hereto and marked as Annexure III & IV respectively.

6. That with regard to the statements made in paragraphs 4 of the CP the answering respondent begs to state that it is an admitted fact that this Hon'ble Tribunal had directed the respondents to conclude the departmental proceedings within a period of 4 (four) months, however the departmental proceedings could not be completed since the applicant had made a request for examination of the original documents only on 18.07.02. The respondent has a bonafide intention to produce the same before the applicant. However since the original documents were required at the Ministry of Information and Broadcasting at New Delhi for other official purposes some time was required in obtaining the documents from the Ministry. This could have been avoided had the applicant expressed his intention to see the original documents at the time of submission of his written statement.



(कृष्ण सर्मा)
(K. S SARMA)
दुर्घट कार्यकारी अधिकारी
Chief Executive Officer
प्रसार भारती, नई दिल्ली
Prasar Bharati, N. Delhi

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7. That as such from the facts and circumstances stated above it is respectfully submitted that the instant contempt petition is not maintainable. The answering respondent is sincere and honest and is making earnest efforts for early conclusion of the departmental proceedings. The Inquiry Officer and the Presenting Officer has already been appointed and the Inquiry Officer has been apprised of this Hon'ble Tribunal's decision to complete the enquiry within the prescribed period. Departmental proceedings have already been initiated and preliminary hearing had taken place in Guwahati on 18.07.2002. Authenticated copies of all listed documents have been furnished to the Inquiry Officer and the applicant, some time is required for obtaining the original documents from the Ministry as desired by the applicant and the departmental witnesses shall have to be summoned from far off places like New Delhi and Chandigarh. As such some time would be required to produce them before the Inquiry Officer. Considering all these facts it is respectfully prayed that this Hon'ble Tribunal may kindly grant six months further time to answering respondent to complete the proceedings.

8. That the answering respondent respectfully begs to state that it is admitted that the departmental proceedings could not be completed within the period as laid down by this Hon'ble Tribunal. The answering respondents hereby tenders unconditional and unqualified apology for the said non-compliance. The delay as stated above has taken place due to reasons beyond his control. There is no willful and deliberate violation of the order passed by this Hon'ble Tribunal may be pleased to close the instant contempt petition.

Affidavit.....



के० पू. स।,
(K. S SARMA)
मुख्य कार्यकारी अधिकारी
Chief Executive Officer
प्रसार भारती, N. D. B.
Prasar Bharati, N. D. B.

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AFFIDAVIT

I, Sh. K.S.Sarma, aged about 58 years son of late Sh.K.V.Sastry resident of C- II/103-A, Satya Marg, Chanakyapuri New Delhi-21 presently working as CEO & DG AIR, New Delhi do hereby solemnly affirm and declare as follows :

1. That I have been impleaded as respondent no. ~~2~~ ^(one) in the instant contempt petition and, as such, I am competent to file this affidavit and accordingly I swear the same. I am fully conversant with the facts and circumstances of the case.
2. That the statement made in this affidavit and at paragraphs 1 and 5 of the accompanying show cause are true to my knowledge, those made in paragraphs 2,3 and 4 being matter of record of the case are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal.

I sign this affidavit this the
17th day of
Feb, 2003 at New Delhi.

Identified by :

(ADVOCATE)

Solemnly affirmed and declared
by the deponent who is identified
by Rajesh Singh Advocate
on this the 17th day of Feb.
2003.



ATTESTED
17-2-03

DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT. OF INDIA
NEW DELHI

(Advocate)

I identify the Executive/Deponent
who has Signed in My Presence
Rajesh Singh Advocate

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35'
Parasuram I

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO

No. 7/55/95-Vlg. (i)

New Delhi, dated the

18.3.2002

ORDER

WHEREAS an Inquiry under Rule 14 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, is being held against Shri M.C. Gulte, Assistant Engineer (C).

AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against Shri M.C. Gulte, Assistant Engineer (C).

NOW, THEREFORE, the undersigned, in exercise of powers conferred by sub-rule (2) of the said rule, hereby appoints Shri Rajeev Garg, Executive Engineer (C), Civil Construction Wing, All India Radio, Itanagar as the Inquiring Authority to inquire into the charges framed against the said Shri M.C. Gulte.

Scl/-

(K.S. SARMA)
Chief Executive Officer &
DG, AIR

Shri M.C. Gulte,
Assistant Surveyor of Works (C), }
CCW, All India Radio, }
GUWAHATI, }
(Through SE(C), CCW, AIR, Guwahati)

....Contd..2/-

M. K. Chaudhury
Addl. Central Govt.
Standing Counsel

Annexure II

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PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO

No. 7/55/95-Vig.

(ii)

New Delhi, dated the

18 : 3. 2002

ORDER

WHEREAS an inquiry under Rule 14 of Central Civil Services (Classification, Control & Appeal) Rules, 1965, is being held against Shri M.C. Gulte, Assistant Engineer (C).

AND WHEREAS the undersigned considers that a Presenting Officer should be appointed to present on behalf of the undersigned the case in support of the Article of charge.

NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule (5)(c) of Rule 14 of the said rules, hereby appoints Shri R.C. Das, Executive Engineer (C), CCW, AIR, Silchar, as Presenting Officer.

Scl/-

(K.S. SARMA)
Chief Executive Officer &
DG, AIR

Sh. M.C. Gulte,
Assistant Surveyor of Works (C) }
CCW, All India Radio, }
GUWAHATI }

(Through SE(C), CCW, AIR, Guwahati)

....Contd..2/-

*Attested
H.H. Chanda*
H.H. Chanda
Solicitor
Solicitor
Solicitor

ANNEXURE *8* *88* (332 of which is 100)

68-2, 8/2000

5.11.97 (I)

3/11

Annexure-III

PRAMOD BIMALI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL (ALL INDIA RADIO)

No. 7750/957/VIA
New Delhi, dated the 9.8.1997

MEMORANDUM

With reference to his representation addressed to Additional Secretary, Ministry of I&B regarding inspection of records/working copies of listed documents, held M.C. Bulta, ABW(C), CCW, AIR, available in herby, informed you contact Shri M.R.K. Nair, BW(C)-V10.1, CCW, AIR, New Delhi, immediately to inspect the listed documents and submit his representation within three months from the receipt of this memorandum, failing which further action can be taken ex parte.

sd/-

(NARESH JALANI
Deputy Officer
for Director General)

Shri M.C. Bulta,
Assistant Surveyor of Works (C),
CCW, All India Radio,
S. N. W. A. H. A. T. I.

Copy to -

CCW, 'DB(AIR)' (Shri M.R.K. Nair, BW(C)-V10.1, dated 21.07.2000-X) It is requested that the memo. meant for Shri M.C. Bulta, ABW(C), may be sent delivered to him and duly dated acknowledgement obtained and forwarded to this Directorate for record.

In this connection, all the listed authority (and documents pertaining to the case are sent herewith) (and enclosed). CCW, may allow him to inspect the listed documents. In case no inspection supply of the copies of the listed documents, CCW may please make arrangement for the copies of the listed documents to him. After due and needful, the documents which are being used, may be returned to this Directorate.

Enclosed on page

*6/10/00
O/C for Director General*

*Attested
H.C. Chaudhary*
Add. Central Govt
Standing Counsel

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11 (16)
Confidential

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE, GENERAL: ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(Vigilance Unit)

Annexure - IV

No. C-13013/41/94/SW(V)-I/No. 111/395-97

dt. 25/8/2000

Sh. M.C. Gute
ASW(C)
CCW/AIR
Guwahati

Subject: Construction of 10 KW Transmitter and office building
Including 8 nos. staff quarters for TV Centre at Churachanpur.

Reference is invited to DG AIR's Memorandum no. 7/55/95-Via dt.
2.8.2000 on the subject cited above.

The documents as per Annexure- III of memo no. 7/55/95 dt.
9.6.2000 are enclosed herewith for inspection. Your statement of defence should
be submitted up to 10.9.2000 failing which further action can be taken ex-parte.

AMC
(M.R.K. NAIR)
Surveyor of Works (V)-I

Copy to: (N.O.O.)

Sh. S.L.S. Hilmanshu DDA (V), DG AIR, Akashwani Bhawan, New Delhi for
information please. The acknowledgement slip of Sh. M.C. Gute
regarding memo no. 7/55/95-Via dt. 2.8.2000 is enclosed
enclosed in original

AMC
Surveyor of Works (V)-I

Service copy
document without
acknowledgement

Q.C.D
Annexure- III

25/8/2000

Sh. M.C. Gute
ASW(C)
CCW/AIR
Guwahati

Attached
AMC

Adv. Central Govt.
Standing Counsel

10 39' NO. MAI/VIG/2002/91

Annexure V

To,
Sri-Avinash Kr. Gupta,
Surveyor of Works (C) VIG-I,
CCW, AIR,
5th Floor, Sancha Bhawan,
COO Complex, Lodi Road,
New-Delhi-110003.

Subject :- Disciplinary proceedings in respect of Sh. M. C. Quite, Asstt. Engineer (C), CCW, AIR, Guwahati.
Reference :- CCW, AIR, ID No. C-13013/41/94/SW-(V)-
Vol-II dt. 3/12/02.

Sir, As per the above reference letter, I have been informed to visit Vigilance unit of CCW, AIR at 5th floor, Sancha Bhawan New-Delhi for inspection of the original documents. In this regard I am to mention that vide C.A.T. Guwahati Bench Judgement dated 21.3.2002 in OA no 26 of 2002 the disciplinary proceedings against undersigned stands dropped/Quashed since the departmental enquiry could not be concluded within the time limit, there is no time extension granted by the court. Hence I shall not be in a position to visit the vigilance unit, CCW, AIR, New Delhi in compliance with the court's order.

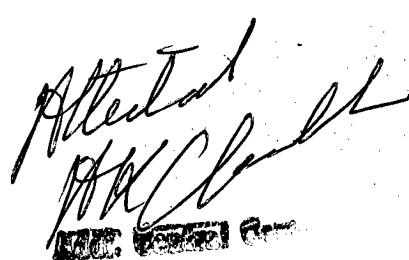
This is for your kind information and necessary action please.

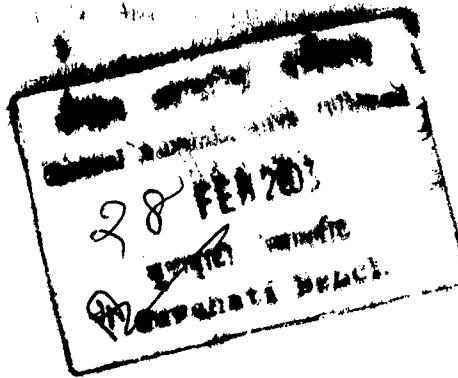
Yours faithfully,

(M. C. QUITE)
ASW (C), CCW, AIR
Guwahati.

Copy to :-
1. Sh. R.C. Das, Presenting Officer, E.E.(C), CCW, AIR, Silchar for information please.
2. Sh. Rajiv Garg, Inquiry Officer, R2 E.E.(C), CCW, AIR, Itanagar.
3. The Director General, (Kind attention Sh. Imran Farid S.O. (Vig)) AIR, Vigilance Section, Akashvani Bhawan, Parliament Street, New-Delhi for information please.

(M. C. QUITE)


M.C. Quite



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Filed by
M. Chinsuan Guite &
Applicant
H. Khan (Adv.) (Adic.
AHMED) Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

CONTEMPT PETITION NO. 35 OF 2002
IN O A NO. 26 OF 2002.

B E T W E E N

SRI M. CHINSUAN GUITE -Applicant
-AND-

The K S SARMA AND OTHERS.

-Respondents.

IN THE MATTER OF:

Rejoinder submitted by the applicant against show cause reply filed by the Respondents in C.P. No. 35 of 2002 in O.A. No. 26 of 2002.

The humble applicant above named filed the rejoinder as follows:

Before submitting Rejoinder it is necessary to give the background of the case.

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The applicant earlier also came before this Hon'ble Tribunal by filing Original Application No. 273 of 2000 against the impugned Departmental Proceeding initiated against him after long back of twelve years. The Hon'ble Tribunal in the above said case directed the Respondents, i.e., instant Respondents/Contemners to complete the inquiry as early as possible, preferably within six months from the date of receipt of the written statement of the applicant. Accordingly, your applicant submitted his written statement within one month from the date of judgment. But after lapse of six months the Respondents/Contemners did not appoint any Inquiry Officer or completed the Departmental Inquiry against the applicant. As such, the applicant was compelled to file another Original Application No. 26 of 2002 for seeking justice in this matter. This Hon'ble Tribunal vide its order dated 21-03-2002 directed the Respondents to complete the said proceeding within 4 months from the receipt of the Order and also in the said judgment it has been stated that in the event the disciplinary proceeding is not concluded within the time schedule prescribed above the disciplinary proceeding shall stand dropped.

WHD

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against the applicant. But this time also the Respondents/Contemners did not completed the proceeding within the stipulated time. Even after expiry of stipulated time given by the Hon'ble Tribunal the Respondents/Contemners continued the Departmental Proceedings against the applicant.

- 1) That with regard to statements made in Paragraphs No. 1 and 2 of the show cause reply filed by the Respondents the applicant has no comment.
- 2) That with regard to statements made in Paragraph No. 3 of the show cause reply filed by the Respondents the applicant begs to state that the same are not correct and hence denied. The Hon'ble Tribunal vide its order dated 16-05-2001 passed in O.A. No. 273 of 2000, (i.e. not in the instant Original Application where the Contempt Petition No. 35/2002 has filed by the applicant) directed the Applicant to submit his written statement if he has not yet done so within one month from the date of receipt of the said Order. The Respondents were also directed to complete the Inquiry as early possible preferably within six months from the date of receipt of the written statement of the

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applicant. Accordingly, your applicant submitted his written statement on 06-06-2001 within one month from the date of judgment. But the competent authority, i.e., the Respondents/Contemners did not even appointed the Inquiry Officer against the applicant even after the stipulated time given by this Hon'ble Tribunal, i.e., preferably within six month from the date of receipt of the written statement of the applicant. Hence, the applicant again filed the Original Application No. 26 of 2002 before this Hon'ble Tribunal seeking justice in this matter. During the pendency of the O.A. No. 26 of 2002 the Respondents/Contemners appointed one Sri Rajeev Garg as Inquiry Officer vide Order dated 18-03-02 and Sri R C Das as presenting Officer. In the meantime the Hon'ble Tribunal vide its order dated 21-03-2002 passed in O.A. No. 26 of 2002 directed the Respondents to complete the said proceeding within 4 (four) months from the receipt of the order by providing a fair and reasonable opportunity to the applicant to defend his case as per law and also stated in the event the disciplinary proceeding is not concluded within the time schedule prescribed above the disciplinary proceeding shall stand dropped against the applicant.

[Signature]

3] That with regard to statements made in Paragraphs No. 4, 5, 6, 7 and 8 of the show cause reply filed by the Respondents the applicant begs to state that the same are not correct and hence denied. The applicant rendered full co-operation as per the Order of the Hon'ble Tribunal and attended the preliminary hearing on 18th/19th July 2002 as fixed by the Inquiry Officer. It may be stated that as per order passed by this Hon'ble Tribunal in O.A. No. 26/2002 the Departmental Proceeding against the applicant will stand dropped if the Departmental proceeding is not completed against the applicant within 4 (four) months from the receipt of the order. The Respondents have receipt the copy of the said order on 01-04-2002 and hence the Departmental Proceeding should be completed against the applicant on or before 01-08-2002. Now the Respondents/Contemners have prayed for another six months time for completing the proceeding against the applicant in the Contempt Petition. The Respondents have already taken 13 (thirteen) years of time for completion of the said proceeding. But, surprisingly, inspite of the two judgments passed by this Hon'ble Tribunal in O.A. No. 273 of 2000 and O.A. No. 26 of 2002 dated 16-05-2001

and 21-03-2002 respectively could not complete the said proceeding. The applicant has fully co-operated with the Respondents/Contemners in the time framed given by this Hon'ble Tribunal. He has also written to the Respondents/Contemners that there is no time extension granted by the Hon'ble Tribunal, as such, he is not in position to attend the said inquiry.

Annexure-X, X/1, X/2 and X/3 are the letter of communication by the applicant to the inquiry officer regarding initiation of Departmental Proceedings

From the above facts and circumstances it is very clear that the applicant has fully co-operated with the Respondents/Contemners to complete the proceeding within time framed, but the Respondents/Contemners with a deliberate intention delayed the matter. As such, the show cause reply submitted by the Respondents/Contemners is not maintainable in facts as well as in law. It may be dismissed by this Hon'ble Tribunal.



4b

VERIFICATION

I, Sri M. Chinsuan Guite, S/o Late M. Kaizathang Guite, Assistant Surveyor of Works (Civil), Civil Construction Wing, All India Radio, Guwahati Division, Tarun Nagar, Bye Lane No. 1, Guwahati-5 do hereby solemnly verify that the above statements are true to my knowledge, belief and information.

And I sign this verification today on this the 28th day of February 2003 at Guwahati.

M. Chinsuan Guite
Declarant.

Confidential
By Speed Post
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ANNEXURE - X

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
GUWAHATI DIVISION: TARUN NAGAR: BYE LANE 1
GUWAHATI-5

No. CWG/AIR/ST/G-Misc/2000/

Date: 01-10-2002

To
Sri Rajeev Garg
Executive Engineer(Civil)
CCW, All India Radio
Itanagar Division
Itanagar-791111

Sub: Forwarding of letter No. MCG/Vig/5/2002 dated 14.08.2002
Of Shri M.C. Guite, ASW(C), Guwahati Division.

Ref: Your letter No. ITAC/I.O./Conf/MCG/2002/47-50 dated 3/11.10.2002

Sir,
Please find enclosed letter No. MCG/Ving/2002/7 dated
01/11/2002 from M.C. Guite, ASW(C) of this office for your
information and necessary action.

Yours faithfully,

Executive Engineer(Civil)
Executive Engineer(Civil)
CCW AIR Guwahati Division

Copy to:

Sri R.C. Das, Executive Engineer(C), CCW AIR, SilChar 0
along with above letter of Shri M.C. Guite, ASW(C)

Executive Engineer(Civil)

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Read, Post
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No. MCG/Vig/5/2002 /

Dated: 14-08-2002

To
The Director General
(kind attn. Shri M.K. Sharma, DDA)
All India Radio
Vigilance Section
Akashvani Bhawan
New Delhi-110001.

Subject: Departmental Enquiry against Shri M.C. Gupte, AE(Civil), AIR..
Refer: CAT, Guwahati Bench OA No. 26 of 2002 order dated 27.03.2002.

Sir,

As per the above court order's direction the departmental proceeding against the undersigned had to be concluded within four months from the date of receipt of the court's order. The copy of the court's order was received at SEC, AIR, Guwahati office on 01.04.2002 and the same was forwarded to D.G., AIR for necessary action. As per the court's order the undersigned rendered co-operation and attended the preliminary hearing on 18 & 19 July, 2002 as fixed by the Inquiry Officer. Now since four months have already passed and the case has not been concluded the departmental proceeding against me now stands dropped vide the above court's order.

Necessary instruction/direction may please be issued to the concerned enquiry authority not to proceed further on the above case.

Encl. Court's order copy

Yours faithfully,

(M. C. GUPTE)
ASWCO, CCW AIR
GUWAHATI DIVISION

Copy to :

1. Sri M.S. Mehta, SWC-Vig-I, CCW AIR Soochna Bhawan, 5th floor, Lodhi Road, CGO Complex, New Delhi-110003 – for information and necessary action please.
2. Shri Rajeev Garg, Inquiry Officer, EEC, CCW AIR, Itanagar – for information.
3. The undersigned shall not be in a position to attend any further hearing as the departmental proceeding against me stands to have been dropped after four months vide the court's order.
4. Sri R. C. Das, Presenting Officer, EEC, CCW AIR, Silchar – for information and same reason as given above please.
5. SEC, CCW AIR, Guwahati – for information please.

(M. C. GUPTE)

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ANNEXURE - X

Confidential

Dated: 01-11-2002

No. MCG/Vig/2002/7

To
Shri Rajeev Garg, EEC
Inquiry Officer
CCW All India Radio
Itanagar (Through EEC, CCW AIR, Guwahati)

Ref: Your letter No. ITA©/I.O./Conf./MCG/2002/47-50 dated 3/11.10.2002

Sir,

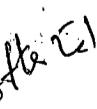
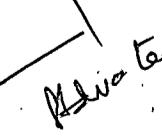
I received the above letter on 30-10-2002. As per the above letter the next that of inquiry has been fixed on 8.11.2002. In this regard I am to mention that vide CAT, Guwahati Bench judgement dated 21-3-2002 in OA No. 26 of 2002 filed by undersigned, the departmental enquiry stands quashed since the departmental proceedings could not be concluded within the time frame specified by the court and till date there is no time extension granted by the court. Hence, I shall not be in a position to attend in the said enquiry in compliance with the court's order. This is for your kind information necessary action please.

Yours faithfully,


(M.C. Guite)
Charged officer (ASW©)

Copy to
Sri R.C. Das, EEC, Presenting officer, CCW AIR, Silchar - for information and necessary action please.


(M.C. Guite)


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Civil Construction Wing

PRASAR BHARATI
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING : ALL INDIA RADIO STATION N.D.
ITANAGAR :: CAMP GUWAHATI

NO.ITA@/I.O/Conf/MCG/2002/ 4
Dated Itanagar, the 3rd Oct 2002

To

As per attached list

Subject: Departmental inquiry against Shri M.C.Guite, ASWC, CCW, AIR, Guwahati

Sir,

The next date of inquiry has been fixed as 08.11.02. You are therefore requested to appear before the inquiry on 08.11.02 at 11.00 A.M. at O/o the Executive Engineer@, CCW, AIR, Guwahati.

Yours faithfully,

(RAJEEV GARG)
Inquiry Officer

Copy to:

1. Shri R.C.Das, Presenting Officer, CCW, AIR, Silchar, for information & necessary action.
2. Shri M.C.Guite, Charged Officer, CCW, AIR, Guwahati, for information and necessary action. (Through E.E.E CCW, AIR, Guwahati)
3. The Director General, (Kind attention Shri M.K. Sharma, DDA), All India Radio, Vigilance Section, Akashvani Bhawan, Parliament Street, New Delhi. Regular hearing could not be held on 3.10.02, since the charged officer did not attend the proceedings.
4. The Chief Engineer@-I, (Kind attention Shri A.K.Gupta, SW (Vig-I), CCW, AIR, 6th FLOOR, Soochna Bhawan, Lodhi Road, New Delhi. Regular hearing could not be held on 3.10.02, since the charged officer did not attend the proceedings.

Received on
3/10/02

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H.L. Hand print
+ Frite
+ 29/10/02

Attended
Jit
Advocate

Inquiry Officer

— 12 — 51
ANNEXURE - X₂
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PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
GUWAHATI DIVISION: TARUN NAGAR: BYE LANE 1
GUWAHATI-5

NO. CWG/AIR/ST/G-Misc/2000/ 379-80

Dated: 18-11-2002

To
Sri Rajeev Garg
Executive Engineer(Civil)
CCW, All India Radio
Itanagar Division
Itanagar-791111

Sub: Forwarding of letter No MCG/Mig/2002/8 dated 12/11/2002 of Sri M. C. Guite, ASW©,
Guwahati Division.

Ref: Your office letter No. ITA©/I.O/MCG/2002 dated 8/11/2002

Sir,
Please find enclosed letter No. mentioned above from Shri M.C. Guite, ASW© of this
office for your information and necessary action.

Yours faithfully,

Executive Engineer(Civil)
CCW AIR Guwahati Division

Copy to:

Sri R.C. Das, Executive Engineer(Civil), CCW AIR, Silchar – along with above letter of Shri M.
C. Guite.

Executive Engineer(Civil)

Alfred
Alfred *Advocate*

No. MCG/Vig/2002/8

-18-

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Date: 12/11/2002

To
Shri Rajeev Garg
Executive Engineer(Civil)
CCW All India Radio
Itanagar
(Through EE(C), Guwahati).

Ref: Your letter No. ITAO/I.O./MCG/2002 dated 8.11.02

Sir,

I received the above letter through EE(C), CCW AIR Guwahati. This is to inform that I shall not attend the enquiry fixed on 4/5-12-2002 in compliance with CAT Guwahati Bench judgment dated 21-03-2002 in OA No. 26 of 2002.

This is for your further necessary action please.

Yours faithfully,

(M.C. GUISTE)
Charged Officer(ASW(C))

Copy to:

Sri R.C. Das, Executive Engineer(Civil), CCW AIR, Silchar Division
- for information and necessary action.

(M.C. GUISTE)

M. Guiste
ASW(C)

No.ITA©/I.O/MCG/2002.

Guwahati
08.11.02

Present: Shri R.C.Das, P.O.

C.O. again did not attend the inquiry proceedings, the regular hearing was started to-day ex-parte; The P.O. produced attested photocopies of prosecution documents but the same could not be taken on record as they were found to be in incomplete shape, and some of them being not attested, (details enclosed). The P.O. also did not produce defence documents. The P.O. stated that original prosecution documents have not been made available to him till date by disciplinary authority.

P.O. could produce only two witnesses SW-9 & SW-10. P.O. regretfully informed that Shri A.K.Chakraborty, SW-5 has expired. None of prosecution and defence documents could be taken on record, but the P.O. insisted that SW-9 and SW-10 can be examined without the document therefore SW-9 and SW-10 were examined by the P.O. The hearing was adjourned to 4.12.02 and 05.12.02 at 11 A.M. to held in the office of EEC, CCW, AIR, Guwahati.

P.O. and C.O. should note that the hearing of the case shall not be further adjourned on any plea. Therefore P.O. & C.O. should ensure the presence of his witnesses. P.O. should also ensure availability of original prosecution and defence document.

Copy of the order sheet and deposition handed over to P.O. and send to C.O. through EE©, CCW, AIR, Guwahati.

P.O.

(RAJEEV GARG)
Inquiry Officer.

C.O.

(Through EEC, CCW, AIR, Guwahati).

Concordia Seminary
EFCU

After 1st
J. J. Silverto

- 16 -

ANNEXURE X₃

PRASAR BHARATI
 (BROAD CASTING CORPORATION OF INDIA)
 OFFICE OF THE EXECUTIVE ENGINEER(C)
 CCW: : AIR: : DIVISION: : GUWAHATI.

No. CWG/AIR/ST/G-Misc/2002/1393-96.

Date. 05/12/2002

To,
 Sh. Avinash Kr. Gupta,
 Surveyor or Works(C) Vig-I.
 CCW, AIR,
 5th floor, Soochna Bhawan,
 CGO Complex, Lodi Road,
 New-Delhi-110003.

Subject :- ~~RE~~ Forwarding of letter No. MOG/Vig./2002/9
 dt. 05/12/2002 of Sh. M. C. Guite, ASW(C),
 Guwahati Division.

Ref. No:- Your letter no CCW, AIR, ID Note No C-13013/41/
 94/SW(V)-I/Vol-III dt. 3/12/02

Sir,

Please find enclosed letter mentioned ^{above} from Sh. M. C. Guite,
 ASW(C) of this Office for your necessary action.

EXECUTIVE ENGINEER(C)
 CCW: AIR: DIVISION: GUWAHATI

Copy to:-

- 1) Sh. R. C. Das, P.O., EE(C), CCW, AIR, Silchar, alongwith
 above letter of Sh. M. C. Guite.
- 2) Sh. Rajiv Garg, F.O., EE(C), CCW, AIR, Itanagar alongwith
 copy of the above letter of Sh. M. C. Guite.
- 3) The D. G. (K.A. Sh. Imran Farid, S.O. (Vig)) AIR,
 Vigilance Section Akashvani Bhawan, Parliament street,
 New-Delhi along with copy of letter of Sh. M. C. Guite.
 for necessary action please.

EXECUTIVE ENGINEER(CIVIL)
 CCW: AIR: DIVISION: GUWAHATI

After

JL
Ans

JL

No. MOG/Vig/2002/96 - 6-25

TO,
Sri-Avinash Kr. Gupta,
Surveyor of Works(C) Vig-I,
CCW, AIR,
5th Floor, Soochaa Bhawan,
CGO Complex, Lodi Road,
New-Delhi-110003.

Subject :- Disciplinary proceedings in respect of Sh. M. C. Guite, Asstt. Engineer(C), CCW, AIR, Guwahati.

Reference:- CCW, AIR, ID. Note No. C-13013/41/94/SW-(V)-#/
Vol-III dt. 3/12/02

Sir,

As per the above reference letter, I have been informed to visit Vigilance unit of CCW, AIR at 5th floor, Shochna Bhawan New-Delhi for inspection of the Original documents. In this regard I am to mention that ~~wide~~ CAT, Guwahati Bench Judgement dated 21.3.2002 in OA no 26 of 2002 the disciplinary proceedings against undersigned stands dropped/Quashed since the departmental enquiry, could not be concluded within the time frame, ^{specified by the court and} there is no time extension granted by the court. Hence I shall not be in a position to visit the Vigilance unit, CCW, AIR, New Delhi in compliance with the court's order.

This is for your kind information and necessary action ples.

Yours faithfully,

(M. C. GUITE)
ASW (C), CCW: AIR
Guwahati.

Copy to:-

- 1) Sh. R.C. Das, Presenting Officer, E.E.(C), CCW, AIR, Silchar for information please.
2. Sh Rajiv Garg, Inquiry Officer, E& E.E.(C), CCW, AIR, Itanagar for information please.
3. The Director General. (Kind attention Sh. Imran Forid S.O. (Vig)), AIR, Vigilance Section, Akashvani Bhawan, parliament street, New-Delhi for information please.

(M. C. GUITE)

Abu
Abu *Abu*

— VI —

Confidential
Most Immediate

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(VIGILANCE UNIT)

5th Floor, Soochna Bhawan
CGO Complex, Lodi Road
New Delhi- 110003

Sub: Disciplinary proceedings in r/o Sh.M.C.Guite, ASW© CCW AIR Guwahati.

With reference to the subject cited above Sh. M.C.Guite, ASW© CCW AIR Guwahati is informed to visit Vigilance unit of CCW AIR at, 5th floor, Soochna Bhawan, New Delhi immediately for inspection of the original documents. He is also requested to intimate his programme for inspection of the documents to undersigned immediately by fax or over telephone.

This issues with the approval of Chief Engineer-I.


(AVINASH KR. GUPTA)
SURVEYOR OF WORKS(C)-VIG.-I

Sh. M.C Guite, ASW© CCW AIR Guwahati.
CCW AIR I.D. Note No. C-13013/41/94/SW(V)-I/Vol.-III / 646

Dated: 3-12-02

Att'd
QH
Ans to

Conformed
Regele

- 18 -

PRASAR BHARATI
(BROAD CASTING CORPORATION OF INDIA)
OFFICE OF THE EXECUTIVE ENGINEER(C)
CCW: :AIR: DIVISION: :GUWAHATI.

No. CWG/AIR/ST/G-Misc/2002/

Date. 14/2/2003

To,
Shri-Rajeev Garg,
Executive Engineer(Civil),
Civil Construction Wing,
All India Radio,
ITAWADDE.

Subject :- Forwarding of letter no MCG/Vig/2002/10
dt. 13-2-2002 of Sh. M. C. Guite, ASW(C)

Ref. No:- Your letter no ITA(C)/Conf./I.O./MCG/2002/919-22
dt. Nil.

Sir,

Please find enclosed letter mentioned above from Sh. M. C. Guite ASW (C) of this office for your necessary action.

Sh
EXECUTIVE ENGINEER(CIVIL)
CCW: :AIR: DIVISION: :GUWAHATI

Copy to:-

- 1) Sh. R. C. Das, Executive Engineer(C), CCW, AIR, Silchar alongwith above letter of Sh. M. C. Guite.
- 2) The D. G. (K.A. Sh. M.K. Bhattacharya, DDA) AIR Vigilance Section, Akashvani Bhawan, Parliament Street, New-Delhi-110001 alongwith copy of letter of Sh. M. C. Guite.
- 3) The Chief Engineer-T. (K.A. Sh. A.K. Gupta, S.W. (Vig-1), CCW, AIR, 5th floor Soochna Bhawan, C.O.O. complex, Lodhi Road, New-Delhi-110003 alongwith copy of letter of Sh. M. C. Guite.

Sh
EXECUTIVE ENGINEER(CIVIL)

Abore

Attended
Anscre

NO. MCG/Vig/2002/10

TO,
Shri Rajeev Garg,
Inquiry Officer,
Executive Engineer(Civil),
CCW, AIR, Ttanagar.

(Through E.E.(C), CCW, AIR, Guwahati)
Reference:- Your letter no ITA(C)/Conf./I.O./MCG/2002/
dt. Nil.

Sir,

I am in receipt of above letter. In this regard I am to mention that vide CAT, Guwahati Bench judgement dated 21-3-2002 in OA No. 26 of 2002 filed by undersigned, the departmental enquiry against me stands dropped/quashed since the departmental proceedings could not be concluded within the time frame specified by the court and there is now no time extension granted by the court. Hence I shall not be in a position to attend the said enquiry at New-Delhi in compliance with the Court's order. This is for your kind information and necessary action please.

Copy to:-

- 1) Shri-R. C. Das, Presenting Officer, E.E.(C), CCW, AIR, Silchar for information please.
- 2) The Director General, (K.A. Sh. M. K. Sharma, DDA) AIR, Vigilance section, Akashvani Bhawan, parliament Street, New-Delhi-110001.
- 3) The Chief Engineer(C)-I (K.A. Shri-A.K. Gupta, S.W. (Vig-I) CCW, AIR, 5th floor, Soochna Bhawan, CGO Complex, Lodi Road, New-Delhi-110003.

Yours faithfully,

(M.C. GUITE)
A.S.W. (Civil)
Charged Officer.

(M. C. GUITE)

Attched
QJ
Done.

— 30 — 59
69

PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
OFFICE OF THE EXECUTIVE ENGINEER(CIVIL),
CIVIL CONSTRUCTION WING: ALL INDIA RADTIO
ITANAGAR

No.ITA(C)/Conf/I.O./MCG/2002/ 919-22 Dated

To
Shri M.C.Guite, (Through EE(C), CCW, AIR, Guwahati)
Assistant Surveyor of works(c)
Charged Officer,
CCW, AIR,
Guwahati.

Sir,

In continuation to earlier references in respect of departmental inquiry against Shri M.C. Guite, ASW(C), CCW, AIR, Guwahati, it is intimated that the next date of inquiry has now been fixed as 19.02.03 & 20.02.03. You are therefore requested to appear before the inquiry on 19.02.03 & 20.02.03 at 11.00 AM in the office of the Executive Engineer(C), New Broadcasting House, CCW, AIR, New Delhi.

Yours faithfully,

Rajeev Garg
(RAJEEV GARG)
INQUIRY OFFICER

Copy to:

1. Shri R.C.Das, Presenting Officer, CCW, AIR, Silchar, for information & necessary action. Summon to the witnesses are being issued separately.
2. The Director General, (Kind attention Shri M.K.Sharma, DDA), All India Radio, Vigilance Section, Akashvani Bhawan, Parliament Street, New Delhi-110 001. In reference to Chief Engineer(c), CCW, AIR, New Delhi, letter No. C-13013/41/94/SW-V-I/698 dated 20.12.2002
3. The Chief Engineer(c)-I, (Kind attention Shri A. K. Gupta, S.W.(Vig-I), CCW, AIR, 6th floor, Soochna Bhavan, Lodi Road, New Delhi. In reference to his office letter No. C-13013/41/94/SW-V-I/698 dated 20.12.2002.

*Sten^o
P. hand over
copy to
Guite*

INQUIRY OFFICER

*Atul
JL
Hauta*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH-GUWAHATI

Guwahati Bench

20 JUN 2003

RECEIVED 20 JUN 2003

Guwahati Bench

Contempt Petition no. 35/2002

Arising out of O.A. no. 26/2002

Sh. M.C. Guite

Applicant

V/s

1. Sh. K.S. Sarma, the Chief Executive Officer & Director General, AIR of Prasar Bharti, New Delhi.
2. Sh. Vigyan Prakash Chief Engineer , CCW, AIR, New Delhi
3. Sh. K. Ponniah , Superintending Engineer © , Guwahati

(Respondents/contemnors)

The respondents no. 1,2 & 3 beg to file the reply to show the steps, so far taken for compliance of the order of Tribunal dt. 21.3.02

1. That the Hon'ble Tribunal has been pleased to pass the order dt. 28.5.03 directing the respondents "... that it is a fit case where direction needs to be issued to the respondents no. 1 , the Director General, AIR or his Chief Executive Officer for appearance before the Tribunal along with connected records including the file of department

IN TESTIMONY WHERE OF proceedings on 30.6.03 : It is expected from the respondents to take I ATTEST AND SIGN WITH MY OFFICE SEAL necessary measure for production of the connected records to show the steps, so far taken for compliance of the order of the "Tribunal

2. That the Hon'ble Tribunal in its order dt. 21.3. 02 mentioned - " Considering all the aspects of the matter we direct the respondents to consider the case of the applicant for promotion to the post of Executive Engineer from the rank of Assistant Engineer by convening



(K. S. SARMA)
Chief Executive Officer
Prasar Bharti (BCI)
F/NM P/MTI

a DPC without taking note of the charges. If the DPC recommends the case of the applicant, in that case, the authority shall take necessary steps for his promotion on adhoc basis. The respondents are ordered to complete the proceedings within four months from the receipt of the order by providing a fair and reasonable opportunity to the applicant to defend his case as per law. It would be open to the applicant to take all the legal issues before the authority that he had raised before this Tribunal and the respondents shall take note of the same. **The applicant is also ordered to render co-operation in conclusion of the proceeding.** In the event the disciplinary proceeding is not concluded within the time schedule prescribed above the disciplinary proceeding shall stand dropped against the applicant ."

3. That the respondent no. 1 has also filed a misc. application before the Hon'ble Tribunal to seek the exemption from the personal appearance
4. That the respondents have the highest regard for the Hon'ble tribunal and wish to obey the direction of the court in most humble manner.
5. That with regard to order of the Hon'ble Tribunal to consider the case of the applicant for promotion, it is humbly submitted that the meeting of departmental promotion Committee was held on 5th July 2002 in the office of Union Public Service Commission, New Delhi, under Chairmanship of Member UPSC. Five other members which included 4 officers of the rank of Joint Secretaries participated in the DPC. The name of Sh. M.C. Guite, the applicant, was considered in the DPC for the year 1998-99 and 1999-2000 for available 1 and 2 vacancies respectively. The DPC in its assessment in respect of both years i.e. 1998-99 and 1999-2000 has made following remarks against the name of Sh. MC. Guite, the petitioner- – "**Assessment considered not necessary since officers with prescribed bench mark have already become available.**"



(K. S. SARMA)
Chief Executive Officer
Prayagraj Tribunal (BCI)
New Delhi

It is, therefore, humbly submitted that officers senior to Sh. M.C. Guite in the consideration zone were already found 'FIT' for promotion against the available vacancies of respective years and in view of the same he could not be promoted. There are no other vacancies for year 2000 onwards in the grade off EE©, till date.

6. It is humbly stated that submission made in para '4' above makes it amply clear that Sh. Guite has not been made to suffer in the matter of his promotion on account of the Departmental Proceedings. The respondents with due sincerity, have complied with the order of the Tribunal in respect of considering the case of the applicant for promotion by conducting the DPC.
7. It is humbly submitted that with regard to the Departmental proceedings the Inquiry Officer has submitted his report and held the Article of charge as " PROVED ". The final action on the Inquiry Report is being expeditiously taken in consultation with "Central Vigilance Commission".
8. It is humbly submitted that the Hon'ble tribunal vide order dt. 21.3.02 was also pleased to order the petitioner to render cooperation in conclusion of the proceedings. The petitioner examined the authenticated documents on 25.8.2000 (Annexure - A) . Since then he did not express his desire to see the originals. Later on during the preliminary hearings on 18.7.02 he asked for the originals. The petitioner was also given opportunity to see the originals (Annexure- B) but he refused to see the originals (Annexure - C) on the plea that time allowed by the Hon'ble Tribunal for completing the proceedings has lapsed. Raising the issue of examination of original documents at a belated stage by the applicant would apparently have contributed to the delay of the departmental proceedings. Had he had any bonafide intention to complete the proceedings he could have done so by requesting the I.O. for examination of documents immediately after the appointment of I.O. on 18.3.02 . It is therefore required to be brought to the kind notice of the Hon'ble court that the petitioner made the request for



(K. S. SARMA)
Chief Executive Officer
Prasar Bharati (BCI)
JNNS PASHA

inspection of original documents after lapse of 4 months after appointment of I.O.

9. It is humbly submitted that I.O. continued the proceedings to reach its logical conclusion. The petitioner was served notices to appear in the proceedings but he abstained. The I.O. in all fairness acted judiciously and gave full opportunity to the petitioner to present his defence. The petitioner however did not cooperate, which further delayed the proceedings. It is also submitted that witnesses in the case were placed at far off places like Delhi and Chandigarh and one of them has also retired. The brief submitted by the P.O. could reach I.O. after lapse of 1½ months due to postal delay. All these factors cumulatively appear to have contributed to the delay in the proceedings. (Annexure- D)

That the respondents, have mentioned these reasons in their counter reply which had already been filed before the Hon'ble Tribunal wherein the respondents also made prayer for extending the time of completing the Inquiry proceedings.

10. It is humbly submitted that in I.O.'s report the charge against C.O. has been found as 'PROVED'. The charge relates to poor quality of work and bad supervision. It is humbly submitted that further time of three months is required to take final action on the Inquiry Report. The respondents also submit that promotion avenues of the petitioner have not been suffered on account of the 'Departmental Proceedings' till date.

11. The respondents respectfully beg to state that the departmental proceedings could not be completed within the period as allowed by this Hon'ble Tribunal in its order dt. 21.3.02 due to circumstances stated in preceding paragraphs. The answering respondents hereby tender unconditional and unqualified apology for the said non completion. There is no deliberate, intentional delay in completing the proceedings. It is humbly submitted that the delay as stated above has taken place due to reasons beyond their control. There is no



(K. S. SARMA)
Chief Executive Officer
Prasar Bharati (BCI)
New Delhi

willful and deliberate violation of the order passed by the Hon'ble Tribunal.

12. It is humbly submitted that promotional avenues of the petitioner have not been suffered on account of the said departmental proceedings till date.
13. It is humbly stated that respondents wish to place records pertaining to Inquiry and promotion before the court.

That the respondents also humbly pray the Hon'ble tribunal be pleased to drop the contempt proceeding and discharge the contemnor.

Prayed accordingly.

6 ✓ 6

Respondent

(K. S. SARMA)
Chief Executive Officer
Bihar Bhawan (BCI)
JNPT



6

AFFIDAVIT

75

I, K.S. Sarma, aged about 58 years son of Late Sh. K.V. Sarma resident of C-II/103-A, Satya Marg, Chanakyapuri, New Delhi-21, presently working as CEO Prasar Bharti and DG : AIR do hereby solemnly affirm and declare as follows :

1. That I have been impleaded as respondent no. 1 in the instant contempt petition and, as such, I am competent to file this affidavit and accordingly I swear the same. I am fully conversant with the facts and circumstances of the case.
2. That the statement made in this affidavit and at paragraphs 1 to 13 of the accompanying are true to my knowledge and information based on records.

I sign this affidavit this the 24th day of June, 2003 at New Delhi.

Identified by :
(ADVOCATE)

h + c

Deponent
(K.S. SARMA)
Chief Executive Officer
Prasar Bharati (EBI)
Solemnly affirmed and declared
by the deponent who is identified
by R. Sharma Advocate
on this the 24th day of
June, 2003.

IN TESTIMONY WHERE OF
I ATTEST AND SIGN
WITH MY OFFICE SEAL



Solemanly affirmed before me

ATTESTED
26.06.03

DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT. OF INDIA
14, LAWYERS' CHAMBER
SUPREME COURT OF INDIA
NEW DELHI

R. Sharma Adv. Sc.
I identify the Executant/Deponent
who has Signed in My Presence

Confidential

By hand.

PRASAR BHARTI
 (BROADCASTING CORPORATION OF INDIA)
 DIRECTORATE GENERAL: ALL INDIA RADIO
 CIVIL CONSTRUCTION WING
 (Vigilance Unit)

No. C-13013/41/94/SW(V)-I/Vol. II/ 396 - 97

dt. 25/8/2000

Sh. M.C. Gupte
 ASW(C)
 CCW: AIR,
 Guwahati.

Subject : Construction of 10 KW Transmitter and office building including 8 nos. staff quarters for TV Centre at Churachanpur.

Reference is invited to DG AIR's Memorandum no. 7/55/95-Vig. dt. 2.8.2000 on the subject cited above.

The documents as per Annexure- III of memo no. 7/55/95 dt. 9.6.2000 are enclosed herewith for inspection. Your statement of defence should be submitted up to 10.9.2000 failing which further action can be taken ex-parte.

Attd 25/8/2000
 (M.R.K. NAIR)
 Surveyor of Works ©(V)-I

Copy to : (N.O.O.)

Sh. S.L.S. Himanshu DDA (V), DG AIR, Akashwani Bhawan, New Delhi for information please. The acknowledgement slips of Sh. M.C. Gupte regarding memo no. 7/55/95 - Vg. dt. 2.8.2000 in duplicate are enclosed in original

Attd 25/8/2000
 Surveyor of Works ©(V)-I

Received seven copies
 in document without
 annexures
 No. F of Annexure III
 25/8/2000
 Sh. M.C. Gupte
 ASW(C) CCW, AIR
 Guwahati.

Attd 25/8/2000
 Sh. M.C. Gupte
 ASW(C) CCW, AIR
 Guwahati.

8
ANNEXURE - B

Confidential
Most Immediate

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(VIGILANCE UNIT)

5th Floor, Soochna Bhawan
CGO Complex, Lodi Road
New Delhi- 110003

Sub: Disciplinary proceedings in r/o Sh. M.C.Guite, ASW© CCW AIR Guwahati.

With reference to the subject cited above Sh. M.C.Guite, ASW© CCW AIR Guwahati is informed to visit Vigilance unit of CCW AIR at, 5th floor, Soochna Bhawan, New Delhi immediately for inspection of the original documents. He is also requested to intimate his programme for inspection of the documents to undersigned immediately by fax or over telephone.

This issues with the approval of Chief Engineer-I.

8) (AVINASH KR. GUPTA)
SURVEYOR OF WORKS(C)-VIG.-I

Sh. M.C Guite, ASW© CCW AIR Guwahati.

CCW AIR I.D. Note No. C-13013/41/94/SW(V)-I/ Vol.-III / 646-650 Dated: 3-12-02

Copy to:- (NIO)

1. Sh. M.K.Mukhopadhyay, EEO CCW AIR Guwahati for information. He is requested to handover the ID note to Sh. M.C.Guite and forward the dt. acknowledgement for receipt of above said I.D. note. (By Fax)
2. Sh. R.C.Das, Presenting Officer, EEO CCW AIR N.S.Avenue, Silchar-5 for information and necessary action. (By Fax)
3. Sh. Rajiv Garg, Inquiry Officer, EEO CCW AIR Itanagar for information.
4. Sh. Imran Farid, SO(Vig.) DG AIR New Delhi for information.

8) SURVEYOR OF WORKS(C)-VIG.-I

Attested
EEO. Central Govt.
Standing Commr.

9
ANNEXURE - C

NO. MOG/Vig/2002/94

To,
Sri-Avinash K. Gupta,
Surveyor of Works(C) Vig-I,
CCW, AIR,
5th Floor, Soochaa Bhawan,
CGO Complex, Lodi Road,
New-Delhi-110003.

Subject :- Disciplinary proceedings in respect of Sh. M. C. Guite, Asstt. Engineer(C), CCW, AIR, Guwahati.

Reference:- CCW, AIR, ID Note No. C-13013/41/94/SW-(V)-/ Vol-II dt. 3/12/02

Sir,

As per the above reference letter, I have been informed to visit Vigilance unit of CCW, AIR at 5th floor, Soochaa Bhawan New-Delhi for inspection of the original documents. In this regard I am to mention that wide CAT, Guwahati Bench Judgement dated 21.3.2002 in OA no 26 of 2002 the disciplinary proceedings against undersigned stands dropped/Quashed since the departmental enquiry could not be concluded within the time frame ^{specified by the court and} there is no time extension granted by the court. Hence I shall not be in a position to visit the Vigilance unit, CCW, AIR, New Delhi in compliance with the court's Order.

This is for your kind information and necessary action ples.

Yours faithfully,

(M.C. GUITE)
(M.C. GUITE)
ASW (C), CCW: AIR
Guwahati.

Copy to:-

- 1) Sh. R.C. Das, Presenting Officer, E.E.(C), CCW, AIR, Silchar for information please.
2. Sh Rajiv Garg, Inquiy Officer, E.E.(C), CCW, AIR, Itanagar for information please.
3. The Director General. (Kind attention Sh. Imran Farid S.O. (Vig)), AIR, Vigilance Section, Akashvani Bhawan, parliament street, New-Delhi for information please.

(M. C. GUITE)

*Attended
M.C.G.*

PRASAR BHARATI
 BROADCASTING CORPORATION OF INDIA
 OFFICE OF THE EXECUTIVE ENGINEER (CIVIL)
 CIVIL CONSTRUCTION WING :: ALL INDIA RADIO
 N.S. AVENUE :: SILCHAR

NO. CWS.19(4)/99-S/Conf/B19-21 Dated 09-06-2003

To

✓ The Superintendent of Post office,
 Cachar Division,
 Silchar-1

Subject : Non delivery of Registered with A/D letter

Sir,

A registered letter with A/D bearing Regd. No. 13 dated 21-04-2003 was sent through Rongirkhori Sub- Post office, Silchar-5 to Itanagar Head Post office addressed to Shri Rajiv Garg, Executive Engineer(C), Civil Construction wing, All India Radio, C Sector, Itanagar on 21-04-2003, but till date the letter has not been received by the addressee. This is being very very urgent letter you are requested to trace out the above letter and inform this office regarding the above matter.

Thanking you,

Yours faithfully,

56/

(R.C.DAS)
 Executive Engineer(C)
 CCW :: AIR :: Silchar

Enclo :- Receipt of Regd.
 Letter No. 13

COPY TO :-

1. The Post Master, Rongirkhori Sub-Post Office, N.S. Avenue, Silchar-5 for information please
2. Shri Rajiv Garg, Executive Engineer(C), Civil Construction Wing, All India Radio, 'C' Sector PO-Itanagar, Arunachal Pradesh alongwith the copy of the above letter. Original documents(photostat copies) received from SW(V) maximum has been sent with the above letter and no further copies are available with this office. However copy of the report of Presenting Officer is enclosed herewith.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JUN 2003
GUWAHATI BENCH-GUWAHATI

Central Administrative Tribunal
Guwahati Bench
Guwahati Bench

Contempt Petition no. 35/2002
Arising out of O.A. no. 26/2002

Sh. M.C. Guite

Applicant

V/s

1. Sh. K.S. Sarma, the Chief Executive Officer & Director General, AIR of Prasar Bharti, New Delhi.
2. Sh. Vigyan Prakash Chief Engineer , CCW, AIR, New Delhi
3. Sh. K. Ponniah , Superintending Engineer © , Guwahati

(Respondents/contemnors)

The respondents no. 1,2,3 beg to file the reply to show the steps, so far taken for compliance of the order of Tribunal dt. 21.3.02

1. That the Hon'ble Tribunal has been pleased to pass the order dt. 28.5.03 directing the respondents "... that it is a fit case where direction needs to be issued to the respondents no. 1 , the Director General, AIR or his Chief Executive Officer for appearance before the Tribunal along with connected records including the file of department proceedings on 30.6.03 . It is expected from the respondents to take IN TESTIMONY WHERE OF I ATTEST AND SIGN necessary measure for production of the connected records to show WITH MY OFFICE SEAL the steps, so far taken for compliance of the order of the "Tribunal

2. That the Hon'ble Tribunal in its order dt. 21.3. 02 mentioned - " Considering all the aspects of the matter we direct the respondents to consider the case of the applicant for promotion to the post of Executive Engineer from the rank of Assistant Engineer by convening

VIGYAN PRakash, C.E, CCW, AIR



a DPC without taking note of the charges. If the DPC recommends the case of the applicant, in that case, the authority shall take necessary steps for his promotion on adhoc basis. The respondents are ordered to complete the proceedings within four months from the receipt of the order by providing a fair and reasonable opportunity to the applicant to defend his case as per law. It would be open to the applicant to take all the legal issues before the authority that he had raised before this Tribunal and the respondents shall take note of the same. **The applicant is also ordered to render co-operation in conclusion of the proceeding.** In the event the disciplinary proceeding is not concluded within the time schedule prescribed above the disciplinary proceeding shall stand dropped against the applicant.”

3. That the respondent no. 1 has also filed a misc. application before the Hon'ble Tribunal to seek the exemption from the personal appearance.
4. That the respondents have the highest regard for the Hon'ble tribunal and wish to obey the direction of the court in most humble manner.
5. That with regard to order of the Hon'ble Tribunal to consider the case of the applicant for promotion, it is humbly submitted that the meeting of departmental promotion Committee was held on 5th July 2002 in the office of Union Public Service Commission, New Delhi , under Chairmanship of Member UPSC . Five other members which included 4 officers of the rank of Joint Secretaries participated in the DPC. The name of Sh. M.C. Guite, the applicant , was considered in the DPC for the year 1998-99 and 1999-2000 for available **1 and 2** vacancies respectively. The DPC in its assessment in respect of both years i.e. 1998-99 and 1999-2000 has made following remarks against the name of Sh. MC. Guite, the petitioner- – **“ Assessment considered not necessary since officers with prescribed bench mark have already become available.”**

It is, therefore, humbly submitted that officers senior to Sh. M.C. Guite in the consideration zone were already found 'FIT' for promotion



against the available vacancies of respective years and in view of the same he could not be promoted. There are no other vacancies for year 2000 onwards in the grade off EEC, till date.

6. It is humbly stated that submission made in para '4' above makes it amply clear that Sh. Guite has not been made to suffer in the matter of his promotion on account of the Departmental Proceedings. The respondents with due sincerity, have complied with the order of the Tribunal in respect of considering the case of the applicant for promotion by conducting the DPC.
7. It is humbly submitted that with regard to the Departmental proceedings the Inquiry Officer has submitted his report and held the Article of charge as " PROVED ". The final action on the Inquiry Report is being expeditiously taken in consultation with "Central Vigilance Commission".
8. It is humbly submitted that the Hon'ble tribunal vide order dt. 21.3.02 was also pleased to order the petitioner to render cooperation in conclusion of the proceedings. The petitioner examined the authenticated documents on 25.8.2000 (Annexure - A) . Since then he did not express his desire to see the originals. Later on during the preliminary hearings on 18.7.02 he asked for the originals. The petitioner was also given opportunity to see the originals (Annexure- B) but he refused to see the originals (Annexure - C) on the plea that time allowed by the Hon'ble Tribunal for completing the proceedings has lapsed. Raising the issue of examination of original documents at a belated stage by the applicant would apparently have contributed to the delay of the departmental proceedings. Had he had any bonafide intention to complete the proceedings he could have done so by requesting the I.O. for examination of documents immediately after the appointment of I.O. on 18.3.02 . It is therefore required to be brought to the kind notice of the Hon'ble court that the petitioner made the request for inspection of original documents after lapse of 4 months after appointment of I.O.



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9. It is humbly submitted that I.O. continued the proceedings to reach its logical conclusion. The petitioner was served notices to appear in the proceedings but he abstained. The I.O. in all fairness acted judiciously and gave full opportunity to the petitioner to present his defence. The petitioner however did not cooperate, which further delayed the proceedings. It is also submitted that witnesses in the case were placed at far off places like Delhi and Chandigarh and one of them has also retired. The brief submitted by the P.O. could reach I.O. after lapse of 1½ months due to postal delay. All these factors cumulatively appear to have contributed to the delay in the proceedings. (Annexure- D).

That the respondents, have mentioned these reasons in their counter reply which had already been filed before the Hon'ble Tribunal wherein the respondents also made prayer for extending the time of completing the Inquiry proceedings.

10. It is humbly submitted that in I.O.'s report the charge against C.O. has been found as 'PROVED'. The charge relates to poor quality of work and bad supervision. It is humbly submitted that further time of three months is required to take final action on the Inquiry Report. **The respondents also submit that promotion avenues of the petitioner have not been suffered on account of the 'Departmental Proceedings' till date.**

11. The respondents respectfully beg to state that the departmental proceedings could not be completed within the period as allowed by this Hon'ble Tribunal in its order dt. 21.3.02 due to circumstances stated in preceding paragraphs. The answering respondents hereby tender unconditional and unqualified apology for the said non completion. There is no deliberate, intentional delay in completing the proceedings. It is humbly submitted that the delay as stated above has taken place due to reasons beyond their control. There is no willful and deliberate violation of the order passed by the Hon'ble Tribunal.

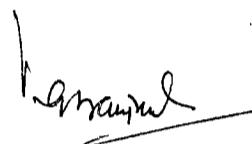


Karan Singh

12. It is humbly submitted that promotional avenues of the petitioner have not been suffered on account of the said departmental proceedings till date .
13. It is humbly stated that respondents wish to place records pertaining to Inquiry and promotion before the court .

That the respondents also humbly pray the Hon'ble tribunal be pleased to drop the contempt proceeding and discharge the contemnor .

Prayed accordingly.



Respondent

✓, GYAN PRAKASH, G.E, CCW, AIB



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AFFIDAVIT

I , Vigyan Prakash, aged about 58 years son of Sh. Gyan Swarup resident of H-26 C, Sector -XI, Noida presently working as CE-I, CCW, AIR, New Delhi do hereby solemnly affirm and declare as follows :

1. That I have been impleaded as respondent no. 2 in the instant contempt petition and, as such, I am competent to file this affidavit and accordingly I swear the same . I am fully conversant with the facts and circumstances of the case.
2. That the statement made in this affidavit and at paragraphs 1 to 13 of the accompanying are true to my knowledge and information based on records .

I sign this affidavit this the 26 day of June 2003 at New Delhi.

Identified by :

Vigyan Prakash
Deponent.

VIGYAN PRAKASH, C.E,CCW,AIR

(ADVOCATE).

Solemnly affirmed and declared
by the deponent who is identify
by R. Sharma Advocate
on this the 26 day of
June , 2003.

IN TESTIMONY WHERE OF
I ATTEST AND SIGN
WITH MY OFFICE SEAL



Solemnly affirmed before me

ATTESTED
Dipankar Das
26.06.03

DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT. OF INDIA
14, LAWYERS CHAMBER
S. SUPREME COURT OF INDIA
N.L., DELHI

Mr. R. Sharma
I Identity the Executant/Deponent
who has Signed in My Presence

Annexure
(B)

7
Confidential

By hand.

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL: ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(Vigilance Unit)

No. C-13013/41/94/SW(V)-I/Vol. III/ 396-97

dt. 25/8/2000

Sh. M.C. Guite
ASW(C)
CCW: AIR,
Guwahati.

Subject : Construction of 10 KW Transmitter and office building including 8 nos. staff quarters for TV Centre at Churachanpur.

Reference is invited to DG AIR's Memorandum no. 7/55/95-Vig. dt. 2.8.2000 on the subject cited above.

The documents as per Annexure- III of memo no. 7/55/95 dt. 9.6.2000 are enclosed herewith for inspection. Your statement of defence should be submitted up to 10.9.2000 failing which further action can be taken ex-parte.

*Attended
M.C. Guite*

25/8/2000
(M.R.K. NAIR)
Surveyor of Works ©(V)-I

Copy to : (N.O.O.)

Sh. S.L.S. Himanshu DDA (V), DG AIR, Akashwani Bhawan, New Delhi for information please. The acknowledgement slips of Sh. M.C. Guite regarding memo no. 7/55/95-Vig. dt. 2.8.2000 in duplicate are enclosed in original.

25/8/2000
Surveyor of Works ©(V)-I

7 received above copies
in document without
Annexure III
No. F of Annexure III

25/8/2000
Sh. M.C. Guite
ASW(C) CCW: AIR
Guwahati.

O/C

8
Confidential
Most Immediate

PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(VIGILANCE UNIT)

5th Floor, Soochna Bhawan
CGO Complex, Lodi Road
New Delhi- 110003

Sub: Disciplinary proceedings in r/o Sh.M.C.Guite, ASW© CCW AIR Guwahati.

With reference to the subject cited above Sh. M.C.Guite, ASW© CCW AIR Guwahati is informed to visit Vigilance unit of CCW AIR at, 5th floor, Soochna Bhawan, New Delhi immediately for inspection of the original documents. He is also requested to intimate his programme for inspection of the documents to undersigned immediately by fax or over telephone.

This issues with the approval of Chief Engineer-I.

8 (AVINASH KR. GUPTA)
SURVEYOR OF WORKS(C)-VIG.-I

Sh. M.C.Guite, ASW© CCW AIR Guwahati.

CCW AIR I.D. Note No. C-13013/41/94/SW(V)-I/ Vol.-III / 646-650 Dated: 3-12-02

Copy to:- (NIO)

1. Sh. M.K.Mukhopadhyay, EEC CCW AIR Guwahati for information. He is requested to handover the ID note to Sh. M.C.Guite and forward the dt. acknowledgement for receipt of above said I.D. note. (By Fax)
2. Sh. R.C.Das, Presenting Officer, EEC CCW AIR N.S.Avenue, Silchar-5 for information and necessary action. (By Fax)
3. Sh. Rajiv Garg, Inquiry Officer, EEC CCW AIR Itanagar for information.
4. Sh. Imran Farid, SO(Vig.) DG AIR New Delhi for information.

8 SURVEYOR OF WORKS(C)-VIG.-I

Attested
A.K. Choudhury
SAC, CCW AIR
Guwahati

No. MOG/Vig/2002/98

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To,
Sri-Avinash Kr. Gupta,
Surveyor of Works(C) Vig-I,
CCW, AIR,
5th Floor, Soochaa Bhawan,
CGO Complex, Lodi Road,
New-Delhi-110003.

Subject :- Disciplinary proceedings in respect of Sh. M. C. Guite, Asstt. Engineer(C), CCW, AIR, Guwahati.

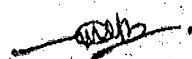
Reference:- CCW, AIR, ID Note No. C-13013/41/94/SW-(V)-P/
Vol-II dt. 3/12/02

Sir,

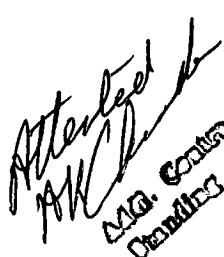
As per the above reference letter, I have been informed to visit Vigilance unit of CCW, AIR at 5th floor, Soochna Bhawan New-Delhi for inspection of the Original documents. In this regard I am to mention that wide CAT, Guwahati Bench Judgement dated 21.3.2002 in OA no 26 of 2002 the disciplinary proceedings against undersigned stands dropped/Quashed since the departmental enquiry could not be concluded within the time frame, ^{specified by the court and} there is no time extension granted by the court. Hence I shall not be in a position to visit the Vigilance unit, CCW, AIR, New Delhi in compliance with the court's Order.

This is for your kind information and necessary action ples.

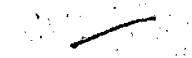
Yours faithfully,


(M.C. GUITE)
ASW (C), CCW: AIR
Guwahati.

Copy to:-


Afterreed
M.C. Central Govt
Chandigarh Court

- 1) Sh. R.C. Das, Presenting Officer, E.E.(C), CCW, AIR, Silchar for information please.
2. Sh Rajiv Garg, Inquiy Officer, E.E.(C), CCW, AIR, Itanagar for information please.
3. The Director General. (Kind attention Sh. Imran Farid S.O. (Vig)), AIR, Vigilance Section, Akashvani Bhawan, parliament street, New-Delhi for information please.


(M. C. GUITE)

PRASAR BHARATI
 BROADCASTING CORPORATION OF INDIA
 OFFICE OF THE EXECUTIVE ENGINEER (CIVIL)
 CIVIL CONSTRUCTION WING :: ALL INDIA RADIO
 N.S. AVENUE :: SILCHAR

NO. CWS.19(4)/99-S/Conf/819-21 Dated 09-06-2003

To

The Superintendent of Post office,
 Cachar Division,
 Silchar-1

Subject : Non delivery of Registered with A/D letter

Sir,

A registered letter with A/D bearing Regd. No. 13 dated 21-04-2003 was sent through Rongirkhatri Sub- Post office, Silchar-5 to Itanagar Head Post office addressed to Shri Rajiv Garg, Executive Engineer(C), Civil Construction wing, All India Radio, C Sector, Itanagar on 21-04-2003, but till date the letter has not been received by the addressee. This is being very very urgent letter you are requested to trace out the above letter and inform this office regarding the above matter.

Thanking you,

Yours faithfully,

36/

(R.C.DAS)
 Executive Engineer(C)
 CCW :: AIR :: Silchar

Enclo :- Receipt of Regd
 Letter No. 13.

Copy to :-

1. The Post Master, Rongirkhatri Sub-Post Office, N.S. Avenue, Silchar-5 for information please
2. Shri Rajiv Garg, Executive Engineer(C), Civil Construction wing, All India Radio, 'C' Sector PO-Itanagar, Arunachal Pradesh alongwith the copy of the above letter. Original documents(photostat copies) received from SW(V) ~~xxxxxxxxxx~~ has been sent with the above letter and no further copies are available with this office. However copy of the report of Presenting Officer is enclosed herewith.

*Referred
 Addl. Control Comm.
 Standing Comm.*