

FROM No. 4.
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. _____

Misc Petition No. _____

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

Review Application No. _____

Applicants. M. C. Guite

-Vs-

Respondant(s) K. S. Sarma & V. Prakash

Advocate for the Appellant(s) Mr. ADIL AHMED

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

Notes of the Registry

Date

Order of the Tribunal

This contempt petition has been filed u/s 17 of the CAT Act, 1985 praying for punishment of the contemners/Respondents for non-compliance of Judgment & order dated 21.3.2002 which was passed in OA NO. 26/2002 by this Tribunal.

20.8.02

Heard Mr. A. Ahmed, learned counsel for the applicant.

Issue notice to show cause as to why the contempt proceeding shall not be initiated.

List on 20.9.2002 for orders.

Member

Vice-Chairman

Laid before Hon'ble Court for orders

20.9.02

Mr. B. C. Pathak, learned Addl. C.G.S.C. has stated that the Respondents ^{had} engaged Mr. A. K. Choudhury, learned Addl. C.G.S.C. to represent them and Mr. A. K. Choudhury, ^{had} entered appearance on behalf of the alleged contemners for ^{and asked} accommodating the respondents and he prays for time to file reply. Prayer is allowed. List on 27.9.02

contd/-

C.P.35 of 2002

NOTICE appeared
And Sent to D-Section
for issuing of the
Same to the respondents
Through Regd. post.

20.9.02 for hearing.

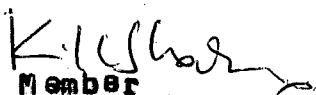
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Vice-Chairman

Vide D.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.

20
21-8-02


Member


Vice-Chairman

mb


11.11.02

On the prayer of Mr. A.K. Choudhury
learned Addl. C.G.S.C. for the respond-
ents further four weeks time is granted
to the respondents to file reply.
List on 12.12.2002 for orders.

No reply has been
filed.

20
11-12-02


Member


Vice-Chairman

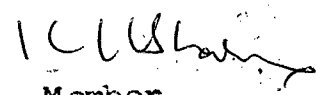
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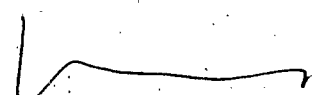
12.12.02

On the prayer of Mr. A.K. Choud-
hury, 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
filed.

20
22-1-03


Member


Vice-Chairman

mb

13.1.2003

Due to vacation, the case is adjourned
to 28.1.2003.

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
filed.

20
30-1-03


Member


Vice-Chairman

mb

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. Choudhury, learned Addl. C.G.S.C. for the respondents.

21.02.03

Show Cause
reply has been submitted
by the Respondent No. 2 & 3.

mb

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 Respondent No. 1.

mb

Vice-Chairman

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.

mb

Member

Vice-Chairman

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.

Member

Vice-Chairman

nkm

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

By Order

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.

Vice-Chairman

Order dated 28/5/03
Communicated to the
Respondent No. 1 & 2
& Sri A.K. Chaudhuri,
Wd. S.No. _____
Dtd. _____
29/5.

2.7.03
Shri's Counsel reply
submitted by him
Respondent Nos. 1, 2 and 3.

Notes of the Registry	Date	Orders of the Tribunal
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18.7.2003

Put up again on 23.7.2003 for hearing.

Member

Vice-Chairman

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mb

6

Notes of the Registry

Date

Orders of the Tribunal

0000

0000

0000

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 frame and on its failure to complete the same with the time prescribed the proceeding would ^{stand} 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 afflux of time. The affidavit filed by the alleged contemnors 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.

Member

Vice-Chairman

By order pg

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. appearing 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.....

Order dtd 25/7/03 Communicated to Mr. K.S. Sarma, D.G. AIR, New Delhi by Speed Post & Mr. A.K. Chowdhury, Addl. C.G.S.C.

28/7/03.

Office Note	Date	Tribunal's Order
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28.8.2003

respondents we are not inclined to stretch the matter further.

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.

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.

On consideration of all aspects of the matter we close the proceeding.

The contempt proceeding thus stands discharged.

K. P. Brahachari
Member

[Signature]
Vice-Chairman

nkm

Received copy
on behalf of
respondent.

[Signature]
4/9/03

11.9.2003

Copy of the order
has been sent to the
office for issuing
the same to the L/Advocate
for the parties.

HS

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 Contemner/Respondent for non-compliance of judgment and order passed by the Hon'ble Tribunal 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.

File by
Sri M. Chinsuan Guite
through
Advocate (A/c 2002)

ms

-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.

Wm

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

-Respondents

Contemners.

The Humble Petition of the
above named Petitioner:

MOST RESPECTFULLY SHEWETH:

11 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 fir inspection of the documents and submit additional written statement thereafter. The

amh

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."

21 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 then 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

Wdh

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.

3] 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.

41 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 stapes 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

[Handwritten signature]

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.

5] 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

(111)

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.

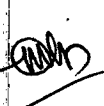
And for this act of kindness your petitioner as in duty bound shall ever pray.

.. Draft Charge

10/10

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.



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 believe 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

DEPONENT

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

S. Sankar
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.



Attested
by
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

Atty 4
18
Admitted

in not completing the departmental proceeding within the time prescribed. The respondents seemingly acted with torpidity. No dereliction 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. Mere 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

Attested
J.S. Advaita

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.



SC/ VICE CHAIRMAN
SD/ MEMBER (A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

bb

[Signature]
27/3/02
Section Officer (J),
आयुक्त अधिकारी (न्यायिक शाखा),
Central Administrative Tribunal,
केन्द्रीय प्रशासनिक अधिकारी,
Guwahati Bench, Guwahati
गुवाहाटी न्यायाधीश, गुवाहाटी
[Signature]
27/3/2002

[Signature]
[Signature]

- 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

CO

Attended

JL

Shri

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, Lodhi Road
New Delhi- 110003

Sub:- Departmental Inquiry against Shri. M.C. Gulla, 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/a

(M.S. MEHTA)
Surveyor of Works ©(v)-I

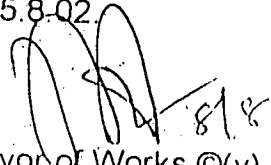
Sh. Rajeev Garg, I.O., CCW, AIR, Itanagar

DG: AIR, CCW ID note no. C-13013/41/94/SW(V)-I / 353

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.


Surveyor of Works ©(v)-I

Steno
Pl. Handover a
xerox copy of the
order to Sh. G. Mehta, ASW
and for return to
14/08

Attn: CI
1
Asst. Secy

28
- 17 -
**TIME BOUND
CONFIDENTIAL
MOST IMMEDIATE**

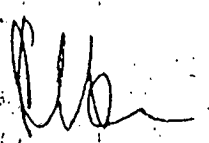
**PRASAR BHARATI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
(VIGILANCE SECTION)**

Subject :- Departmental Inquiry against Shri M.C. Guite, ASW@, 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. Guite, ASW@, 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/IO/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 Guite 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.

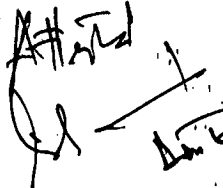
3. This may please be treated as **MOST IMMEDIATE**.

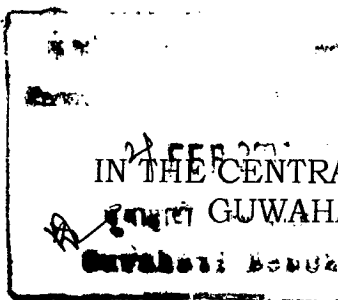

(M.K. SHARMA)
Dy. Director of Administration

Encl. : As above.

CCW, AIR (Shri M.S. Mehta, SW@ (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

ASST I / E

7/8

Attended

Date



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, 2, 3 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 on 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



ATTESTED

29-01-03

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

-2- 19-

29

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



Memorandum

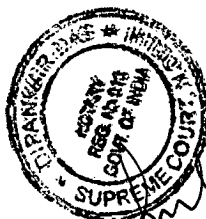
3

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.

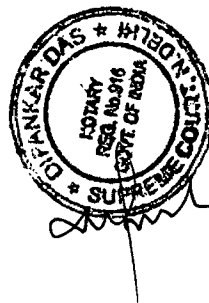
Copies of the aforesaid letters dt. 2.8.2000 and 25.08.2000 are annexed hereto and marked as Annexure III & IV respectively.

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.



- 4 21 31
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.....



Kanwarpal

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AFFIDAVIT

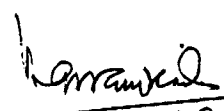
I , Vigyan Prakash, aged about 58 years son of Sh. Gyan Swarup resident of H-26 C, Sector -XI, Noida presently working as CE-I, CCW, AIR, New Delhi do hereby solemnly affirm and declare as follows :

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.

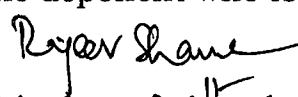
2. That the statement made in this affidavit and at paragraphs 1 and 5 of the accompanying show cause are true to my knowledge, those made in paragraphs 2,3 and 4 being matter of record of the case are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal.

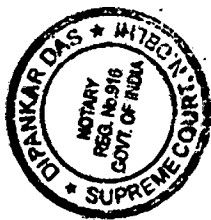
I sign this affidavit this the 29th day of January , 2003 at New Delhi.

Identified by :


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

(ADVOCATE)

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

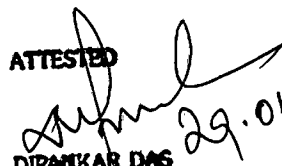


(Advocate)

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


Mr. Rajeev Sharma

ATTESTED


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

23- 33
Annexure I 126

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 Rajeew 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.

scf

(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/-

Attended
M.C. Gulte
CCW Central Cn
Guwahati

7
Annexure II
31
132

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

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

scd
(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/-

Attended
HHC
2002-03-18
2002-03-18
2002-03-18

8 25 25
ANNEXURE - III

25-2-8-2000

S. No. 97 (I)

Annexure - III

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

No. 7/50/95-Vig. New Delhi, dated the 2.8.2000.

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. Bulte, 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 the representation within one month from the receipt of this Memorandum, failing which further action can be taken ex-parte.

sd/-
(NARESH JAISWAL)
Section Officer
for Director General

Shri M.C. Bulte,
Assistant Surveyor of Works (C),
CCW, All India Radio,
GUWAHATI.
(Through CCW, AIR,
New Delhi)

Copy to :-

CCW, DB(AIR) (Shri M.R.K. Nair, SW(C)-Vig.1, New Delhi).
their I.D. Note No. C-13013/41/94/BW(V)-1 Vol.11/310 dated 21.07.2000. It is requested that the Memo. sent to Shri M.C. Bulte, ASW(C), may be got delivered to him and his 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 (1116 enclosed). CCW, may allow him to inspect the listed documents. In case he insinuation supply of the copies of the listed documents, CCW may please make arrangement to supply 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.

Encl. : As above.

for Director General

Noted
M.R.K. Nair

9 20 36
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. 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.

File
(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 for completion are enclosed in original.

File
Surveyor of Works (V)-I

enclosed annex copies
to document without
reference B, C & D of
Annexure - II

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

File
File
File

No. MQI/Vig/2002/98

Annexure I

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)-II/
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, Shoochna Bhawan New-Delhi for inspection of the Original documents. In this regard I am to mention that vide 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 please.

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)

Altered
M.C. Guite
Asst. Engineer (C)
Standing Counsel

28-
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI 24 FEB 2002

In the matter of :-

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

Shri M.Chincuan Guite,

- Petitioner

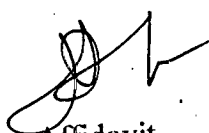
-Versus-

Shri K.S.Sarma & others.

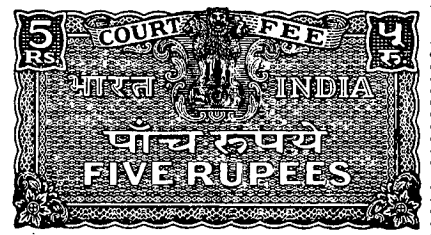
- Opposite- Partner

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

291
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 ~~thirteen~~ ^{fourteen} day of February 2003 at Guwahati.

Identified by:

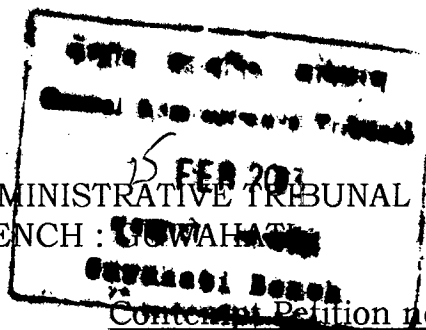
A. H. Chandra
(Advocate)

Deponent

Solemnly affirmed and declared
by the deponent who is identified
by *A. H. Chandra* Advocate
on this *13th* day of February
2003.

Subhakar
ADVOCATE

20
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. 1, ~~beg~~ 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 on 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

650
(K S SARMA)
मुख्य कार्यकारी अधिकारी
Chief Executive Officer
प्रसारण मन्त्री, नई दिल्ली
Prasar Bharati, N. Delhi.

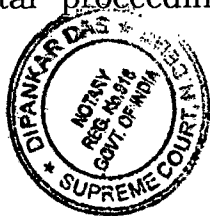


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matter and decided to hold enquiry as the reply filed by the applicant was found to be unsatisfactory. The competent authority appointed Sh. Rajeev Garg as Inquiry Officer vide order dt. 18.3.02 and Sh. R.C. Das as the Presenting Office. There is no 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



610

(क. स. सार्मा)
(K. S SARMA)
मुख्य कार्यकारी अधिकारी
Chief Executive Officer
प्रसार भारती, नई दिल्ली
Prasar bharati, N. Delh.

32

42

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.



h i u
(K. S SARMA)
मुख्य कार्यकारी अधिकारी
Chief Executive Officer
प्रसार भारती, नई दिल्ली
Prasar Bharati, N. Delh.

4 / 33 43

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.....



h s u
(के.एस.सर्मा)
(K. S SARMA)
मुख्य कार्यकारी अधिकारी
Chief Executive Officer
प्रसार भारती, नई दिल्ली
Prasar bharati, N. Delhi

6 34- 44

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. ~~1~~ ^(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)

(को. प्र. स. स. म.)
(K. S SARMA)
मुख्य कार्यकारी अधिकारी
Deponent Executive Officer
प्रसार भारती, नई दिल्ली
Prasar Bharati, N. Delh.

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



ATTESTED
[Signature] 17-02-03
DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. NO. 916
GOVT. OF INDIA
NEW DELHI

(Advocate)

[Signature]
I Identify the Executant/Deponent
who has Signed in My Presence

35
Annexure I
45
126

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.

scf

(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/-

Attended
Ad Ch
Addl. Central Genl.
Standing Counsel

Annexure II

132

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

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

scb
(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/-

Attended
M.C. Gulte
Reading Counsel

ANNEXURE

1532201 (with 1000)

48-2.8.2000

S. H. 94 (I)

Annexure - III

PRAGATI DIVISION
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO

No. 7/50/95-VI-1, New Delhi, dated the 2.8.2000

MEMORANDUM

With reference to his representation, dated 09.07.2000 addressed to Additional Secretary, Ministry of I&B regarding inspection of records/working copies of listed documents, Shri M.C. Gupta, ASW(C), CCW, AIR, Guwahati is hereby informed to contact Shri M.R.K. Nair, BW(C)-VI-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/-
(NARESH JAISWAL)
Section Officer
for Director General

Shri M.C. Gupta,
Assistant Surveyor of Works (C),
CCW, All India Radio,
GUWAHATI.
(Through CCW, AIR,
New Delhi)

Copy to :-
CCW, DB(AIR) (Shri M.R.K. Nair, BW(C)-VI-1, Vol. 11/310 dated their I.D. Note No. C-13013/41/94/BW(V)-1 Vol. 11/310 dated 21.07.2000-X. It is requested that the Memo. sent to Shri M.C. Gupta, ASW(C), may be got delivered to him and his dated acknowledgement obtained and forwarded to this Directorate for record.

In this connection, all the listed documents (and documents pertaining to the case are sent herewith (enclosed). CCW, may allow him to inspect the listed documents. In case he insinuation supply of the copies of the listed documents, CCW may please make arrangement to supply 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.

Encl. as above.

Attested
Addl. Control Genl.
Standing Counsel

for Director General

48

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. II/395-97 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 falling which further action can be taken ex-parte.

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

Copy to: (N.O.O.)

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

Surveyor of Works (V)-I

enclosed three copies
to document without
B, C & D of
Annexure - III

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

Attested
Audl. Central Govt.
Standing Council.

No. MCJ/Vig/2002/94.

To,
Sri-Avinash Kr. Gupta,
Surveyor of Works (C) Vig-I,
CCW, AIR,
5th Floor, Soochna 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 No. C-13013/41/94/SW-(V)-II/
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 vide 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, 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,

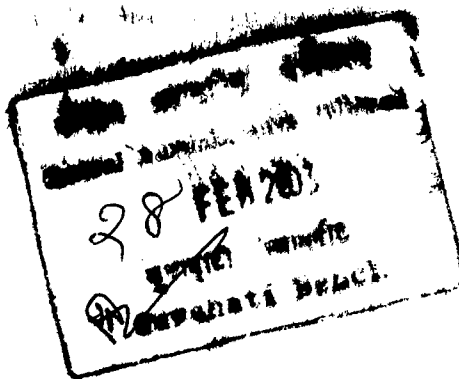
(M.C. GUITE)
ASW (C), CCW, AIR
Guwahati.

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)

Attested
[Signature]
[Stamp]



Filed by
M. Chinsuan Guite
Applicant
Through (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.

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

[Handwritten signature]

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

[Signature]

43

53

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.

[Handwritten 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.

12/12/02

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.

- 18-48 -
Confidential
By Speed Post
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/2000/9

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. ITA@/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,

sd/-
Executive Engineer(Civil) ,
CCW AIR Guwahati Division

Copy to:

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

sd/-
Executive Engineer(Civil)

Attested
JL
A-10-15

58

- 9 - 14 -

Recd. Post
Confidential

Dated: 14-08-2002

No. MCG/Vig/5/2002 /

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. Guite. 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. GUITE)
ASWC, 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, EE@, CCW AIR, Itanagar - for information.
The undersigned shall not be in a position to attend any further departmental proceeding against me stands to have been dropped after four months vide the court's order.
3. Sri R. C. Das, Presenting Officer, EE@, CCW AIR, Silchar - for information and same reason as given above please.
4. SEC, CCW AIR, Guwahati - for information please.

(M. C. GUITE)

A. H. E. I
Dil - 1
D. H. E. I

9
- 48 - 49 -
ANNEXURE - X

Confidential

Dated: 01-11-2002

No. MCG/Vig/2002/7


To
Shri Rajeev Garg, EE©
Inquiry Officer
CCW All India Radio
Itanagar (Through EE©, 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, EE©, Presenting officer, CCW AIR, Silchar - for information and necessary action please.


(M.C. Guite)

After 21
Private

-14-50/

Ch. Sankar 60

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

NO. ITA©/I.O/Conf/MCG/2002/ 4780
Dated Itanagar, the 3rd Oct 2002

To
As per attached list

Subject: Departmental inquiry against Shri M.C. Guite, ASW©, 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.© 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.

Inquiry Officer.

Received on
30/10/02

Steno

Shri. K. D. Dora
to Guite,

30/10/02

After Enl
Advocate

12/51/ANNEXURE - X₂ 61

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/Vig/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)


Attended
Advocate

62
- 12 - 52
Confidential

No. MCG/Vig/2002/8

Date: 12/11/2002

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

Ref: Your letter No. ITAD/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. GUITE)
Charged Officer(ASW(C))

Copy to:

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

(M.C. GUITE)

AS
Hence
1
Given to

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-14- 53-

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 EE@, 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. *R.C. Das*
8.11.02

C.O.

(Through EE@, CCW, AIR,
Guwahati).

Shri R.C. Das
EE@

Rajeev Garg
(RAJEEV GARG)
Inquiry Officer.

Atk El
Adv to

ANNEXURE X₃

PRASAR BHARATI
(BROADCASTING 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 :- Rm Forwarding of letter No. MCG/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.

f EXECUTIVE ENGINEER(CI
CCW:AIR:DIVISION:GUWA

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.

f EXECUTIVE ENGINEER(CIVIL
(Vig))

Attent
Advocate

No. MC3/Vig/2002/97 - 46-55

To,
Sri-Avinash Kr. Gupta,
Surveyor of Works(C) Vig-I,
CCW, AIR,
5th Floor, Sookhaa 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)-D/
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, Shoochna Bhawan New-Delhi for inspection of the Original documents. In this regard I am to mention that vide 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 enquir, 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 please.

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.(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)

Handwritten signatures and initials:
A. K. Das
J. S.
Advocate

66
- 11 - 56 -
Confidential
Most Immediate

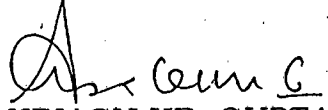
PRASAR BHARTI
(BROADCASTING CORPORATION OF INDIA)
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING
(VIGILANCE UNIT)

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

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

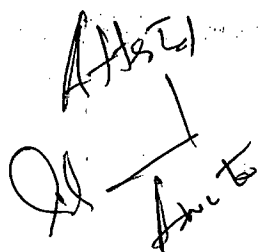
With reference to the subject cited above Sh. M.C.Guite, ASW© CCW AIR Guwahati is informed to visit Vigilance unit of CCW AIR at, 5th floor, Soochna Bhawan, New Delhi immediately for inspection of the original documents . He is also requested to intimate his programme for inspection of the documents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



-18-54

Regd

PRASAR BHARATI
(BROADCASTING 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,
GUWAHATI.

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. O. (K.A. Sh. M.K. Sharma, DDA) AIR Vigilance section, Akashvani Bhawan, Parliament Street, New-Delhi-110001 alongwith a copy of letter of Sh. M.C. Guite.
- 3) The Chief Engineer-I, (K.A. Sh. A.K. Gupta, S.W.(Vig-I), 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)

for

Attended
Asst

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)
13/2/03

Attended
13/2/03

- 30-59

69

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

No.ITA(C)/Conf./I.O./MCG/2002/ 919-22 Dated : 9/2/03

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)
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, Soचना Bhavan, Lodi Road, New Delhi. In reference to his office letter No. C-13013/41/94/SW-V-I/698 dated 20.12.2002.

Steno
Pl- hand over
the copy to Shri
Guite

INQUIRY OFFICER

Shri M.C. Guite
Shri R.C. Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH-GUWAHATI

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 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 (BCL)
New Delhi

2

21

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 C

(K. S. SARMA)
Chief Executive Officer
Public Tribunal (BCU)
New Delhi

22

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



h s c

(K. S. SARMA)
Chief Executive Officer
Prasar Bharati (BCI)
Jawahar Road

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 .

74

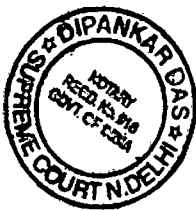
12. It is humbly submitted that promotional avenues of the petitioner have not been suffered on account of the said departmental proceedings till date .
13. It is humbly stated that respondents wish to place records pertaining to Inquiry and promotion before the court .

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

Prayed accordingly.

h v c
Respondent

(K. S. SARMA)
Chief Executive Officer
Pratar Bhatarati (BCL)
Pratar Bhatarati



6

75

AFFIDAVIT

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 i l

Deponent (A)

Chief Executive Officer
Prasar Bharti (BCL)

Solemnly affirmed and declared

by the deponent who is identify

by R. Sharm Advocate

on this the 26th 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

Mr. R. Sharm Adv. Sec.
I Identify the Executant/Deponant
who has Signed in My Presence

7

ANNEXURE

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/395-97

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.

(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

Surveyor of Works ©(V)-I

received three copies
the document without
indexes B, C & D of
No. 7 of Annexure - III

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

Attended
H.C. Choudhary
25/8/2000

8

ANNEXURE - (B)Confidential
Most Immediate

24

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, AE@ 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 / 646/650 Dated: 3-12-02

Copy to:- (NIO)

1. Sh. M.K. Mukhopadhyay, EE@ 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, EE@ CCW AIR N.S. Avenue, Silchar-5 for information and necessary action. (By Fax)
3. Sh. Rajiv Garg, Inquiry Officer, EE@ CCW AIR Itanagar for information.
4. Sh. Imran Farid, SO(Vig.) DG AIR New Delhi for information.

SURVEYOR OF WORKS(C)-VIG.-I

Attested
H. Chandra
Asst. Control Engg.
Standing Counsel.

ANNEXURE - (C)

No. MCG/Vig/2002/9

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)-D/
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, Soochna Bhawan New-Delhi for inspection of the Original documents. In this regard I am to mention that vide 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 please.

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.(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/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 Rangirkhari 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,

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

Encl :- Receipt of Regd.
Letter No. 13

COPY to :-

1. The Post Master, Rangirkhari 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.

*Attended
M. Chandra*
ACB
Circular
Copy to :-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JUN 2003
GUWAHATI BENCH-GUWAHATI

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 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 conveying

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



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.”**



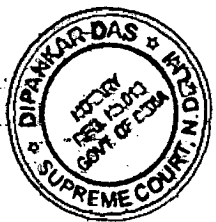
It is, therefore, humbly submitted that officers senior to Sh. M.C. Guite in the consideration zone were already found 'FIT' for promotion

Vigneshwari

VIGNAN PRAKASH, C.E., CCW, AIR

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



Vignay Prakash

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.

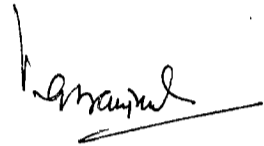


Kamran

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

J. GYAN PRAKASH, C.E., CCW, AIB



85

6

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 26th day of June 2003 at New Delhi.

Identified by :

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 26th day of June , 2003.

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



Solemanly affirmed before me

ATTESTED

Dipankar Das
26.06.03
DIPANKAR DAS
ADVOCATE
NOTARY PUBLIC
REGD. No. 916
GOVT. OF INDIA
14 LAWYERS CHAMBER
SUPREME COURT OF INDIA
NEW DELHI

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

~~Annexure~~
(51)

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. II/395-97

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

received above copies
in document without
measures B, C & D of
no. 7 of Annexure - III

O/C

25/08/2000

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

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, AEO 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 / 646650 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.

SURVEYOR OF WORKS(C)-VIG.-I

Attached
AK Chandra
100. 1000 030
100003

No. MCG/Vig/2002/9

To,
Sri-Avinash Kr. Gupta,
Surveyor of Works(C) Vig-I,
CCW, AIR,
5th Floor, Soochna 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)-2/
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, Soochna Bhawan New-Delhi for inspection of the Original documents. In this regard I am to mention that vide 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.(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)

10

Annexure D

89

PRASAD 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/817-21 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 Rangirkhari
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

Encl :- Receipt of Regd.
Letter No.13

Copy to :-

1. The Post Master, Rangirkhari 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(E) ~~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.

Attended
MM/CL
Adm. Control Copy
Standing Copy